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OFFICIAL  
NEW YORK  
FROM CLEVELAND  
TO HUGHES

*IN FOUR VOLUMES*

EDITOR  
CHARLES ELLIOTT FITCH, L. H. D.

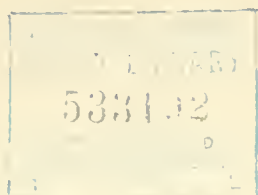
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## CHAPTER I

# GOVERNOR

THE Constitution of the State vests the executive power in the Governor. He is elected by the people and no person is eligible to the office except a citizen of the United States, of the age of not less than thirty years, who shall have been five years, next preceding his election, a resident of the State. The Governor is Commander-in-Chief of the military and naval forces of the State, a trustee of certain of its public buildings, a trustee of the Soldiers' Home and of Union, Cornell and Syracuse Universities. He is required to communicate, by message to the Legislature, at every session, the condition of the State, and recommend such matters to it as he shall judge expedient. He is also required to transact all necessary business with the officers of government, civil and military, and expedite all such measures as may be resolved upon by the Legislature, and take care that the laws are faithfully executed. The Governor may convene the Legislature, or Senate only, in extraordinary session, and may grant reprieves, commutations and pardons after conviction, for all offenses except treason and cases of impeachment. He appoints (by and with the advice and consent of the Senate) certain officers connected with the government

of the State, not elective by the people, and fills vacancies occurring therein during the recess of the Senate. He also may suspend or remove many officers under certain restrictions prescribed by statute. During the session of the Legislature he has the power to veto any bill passed by the Senate and Assembly. In the event of two-thirds of the members elected to each House agreeing to pass a vetoed bill, the same becomes a law, notwithstanding the objections of the Governor. After the final adjournment of the Legislature, no bill becomes a law unless approved by the Governor within thirty days, and he has power to disapprove items in any bill appropriating money. The Governor receives an annual salary of \$10,000 and the use of a furnished executive residence. He is authorized to appoint a private secretary, clerks and messengers, and, to a limited degree, the Executive Chamber is an office of record. The privy seal is the Arms of the State surrounded by the inscription: "State of New York — Executive Privy Seal."

Under the first Constitution, the Governor was chosen triennially. The Constitution of 1821 changed the term from three to two years, and it so remained under the Constitution of 1846. By an amendment in 1874, it was restored to three years; and again, by the Constitution of 1894, it was fixed at two years. A plurality of votes has always been sufficient for an election.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

The following is a list of the Governors of New York since it became a State:

Party	Name	Residence	Elected
Anti-Fed...	George Clinton,	Ulster Co.,	July 9, 1777
Fed.....	John Jay,	New York,	April, 1795
Anti-Fed...	George Clinton,	Ulster Co.,	April, 1801
Dem.-Rep.	Morgan Lewis,	Dutchess Co.,	April, 1804
Rep.....	Daniel D. Tompkins,	Richmond Co.,	April, 1807
Rep. <sup>1</sup> .....	John Tayler,	Albany,	March, 1817
Clintonian	DeWitt Clinton,	New York,	1817
Dem. <sup>2</sup> ....	Joseph C. Yates,	Schenectady,	Nov. 6, 1822
Clintonian	DeWitt Clinton,	New York,	Nov. 3, 1824
Nat. Rep. <sup>1</sup>	Nathaniel Pitcher,	Sandy Hill,	Feb. 11, 1828
Dem.....	Martin Van Buren,	Kinderhook,	Nov. 5, 1829
Fed.-Dem. <sup>3</sup>	Enos T. Throop,	Auburn,	March 12, 1829
Dem. ....	William L. Marcy,	Troy,	Nov. 7, 1832
Whig ....	William H. Seward,	Auburn,	Nov. 7, 1838
Dem. ....	William C. Bouck,	Fultonham,	Nov. 8, 1842
Dem. ....	Silas Wright,	Canton,	Nov. 5, 1844
Whig ....	John Young,	Geneseo,	Nov. 3, 1846
Whig ....	Hamilton Fish,	New York,	Nov. 7, 1848
Whig ....	Washington Hunt,	Lockport,	Nov. 5, 1850
Dem. ....	Horatio Seymour	Deerfield,	Nov. 2, 1852
Rep.....	Myron H. Clark,	Canandaigua,	Nov. 7, 1854
Rep.....	John A. King,	Queens Co.,	Nov. 4, 1856
Rep.....	Edwin D. Morgan,	New York,	Nov. 2, 1858
Dem. ....	Horatio Seymour,	Deerfield,	Nov. 4, 1862
Rep.....	Reuben E. Fenton,	Frewsburg,	Nov. 8, 1864
Dem. ....	John T. Hoffman,	New York,	Nov. 3, 1868
Rep.....	John A. Dix,	New York,	Nov. 5, 1872
Dem. ....	Samuel J. Tilden,	New York,	Nov. 3, 1874
Dem. ....	Lucius Robinson,	Elmira,	Nov. 7, 1876

<sup>1</sup> Lieutenant Governor; Acting Governor.

<sup>2</sup> The Constitution of 1821 provided that the Governor and Lieutenant Governor shall, on and after the year 1823, enter on their respective duties on the first of January.

<sup>3</sup> Lieutenant Governor; became Governor upon resignation of Martin Van Buren, March 12, 1829. Elected November, 1830, for a full term.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Party	Name	Residence	Elected
Rep.....	Alonzo B. Cornell,	New York,	Nov. 4, 1879
Dem. ....	Grover Cleveland,	Buffalo,	Nov. 7, 1882
Dem. <sup>1</sup> ....	David B. Hill,	Elmira,	Jan. 6, 1885
Dem. ....	Roswell P. Flower,	New York,	Nov. 3, 1891
Rep.....	Levi P. Morton,	Rhinecliff,	Nov. 6, 1894
Rep.....	Frank S. Black,	Troy,	Nov. 3, 1896
Rep.....	Theodore Roosevelt,	Oyster Bay,	Nov. 8, 1898
Rep.....	Benjamin B. Odell, jr.,	Newburg,	Nov. 6, 1900
Rep.....	Frank W. Higgins,	Olean,	Nov. 8, 1904
Rep.....	Charles E. Hughes,	New York,	Nov. 6, 1906
Rep. <sup>2</sup> ....	Horace White,	Syracuse,	Oct. 5, 1910
Dem. ....	John A. Dix,	Thomson,	Nov. 8, 1910

<sup>1</sup> Lieutenant Governor; became Governor upon resignation of Grover Cleveland, President-elect of the United States. Elected November 6, 1885, for a full term and re-elected in 1888.

<sup>2</sup> Lieutenant Governor; became Governor upon the resignation of Charles E. Hughes, who was appointed Justice of the Supreme Court of the United States.

## CHAPTER II

### LIEUTENANT GOVERNOR

THE Lieutenant Governor is elected by the people in the same manner and for the same term as the Governor. No person is eligible to the office except a citizen of the United States, of the age of not less than thirty years, who shall have been five years next preceding his election a resident of the State. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office devolve upon the Lieutenant Governor for the residue of the term, or until the disability shall cease. But when the Governor, with the consent of the Legislature, shall be out of the State in time of war, at the head of a military force thereof, he continues Commander-in-Chief of all the military forces of the State. If during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate acts as Governor until the vacancy is filled or the disability shall cease. The Lieutenant Governor is President of the Senate, but has only a casting vote therein. By virtue of that office he is a member



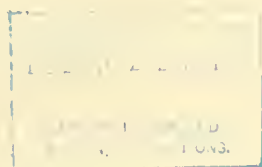
of the Court for the Trial of Impeachments, but is prohibited from acting on the trial of an impeachment against the Governor. He is also a commissioner of the Canal Fund, Land Office, a member of the Canal Board, a trustee of Union College, Cornell University, a trustee of the finished portion of the new Capitol and trustee of several of the other public buildings of the State and a member of the State Board of Equalization of Assessments. He has an annual salary of \$5,000, and is prohibited from receiving any other compensation, fee or perquisite for any duty or service he may be required to perform by the Constitution or by law.

The office of Lieutenant Governor has been held by many prominent men, some of whom subsequently distinguished themselves in other offices.

The following is a list of the Lieutenant Governors :

Name	Residence	Elected
Pierre Van Cortland .....	Croton Landing..	1777
Stephen Van Rensselaer.....	Albany.....	1795
Jeremiah Van Rensselaer.....	Albany.....	1801
John Broome .....	New York.....	1804
John Taylor <sup>1</sup> .....	Albany.....	January 29, 1811
DeWitt Clinton <sup>2</sup> .....	New York.....	April, 1811
John Taylor .....	Albany .....	1813
Erastus Root .....	Delhi .....	November, 1822
James Tallmadge .....	Dutchess county	November, 1824
Nathaniel Pitcher <sup>3</sup> .....	Sandy Hill .....	November, 1826
Peter R. Livingston.....	Dutchess county	February 16, 1828
Charles Dayan.....	Lowville .....	October 7, 1828
Enos T. Throop <sup>4</sup> .....	Auburn .....	November, 1828
Charles Stebbins .....	Cazenovia.....	March 12, 1829
William M. Oliver.....	Penn Yan .....	January 5, 1830
Edward P. Livingston .....	Columbia county	November, 1830







## LEWIS STUYVESANT CHANLER

Born Newport, R. I., September 24, 1869; educated Columbia Law School and Cambridge University, England; admitted to bar 1891; Lieutenant Governor 1906; candidate on Democratic ticket for Governor of New York State 1908, defeated; member of Assembly from Dutchess county 1910-11; Democrat.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Elected	
John Tracy	Oxford	November,	1832
Luther Bradish	Malone	November,	1838
Daniel S. Dickinson	Binghamton	November,	1842
Addison Gardiner	Rochester	November,	1844
Hamilton Fish <sup>5</sup>	New York	November,	1847
George W. Patterson	Westfield	November,	1848
Sanford E. Church	Albion	November,	1850
Henry J. Raymond	New York	November,	1854
Henry R. Selden	Rochester	November,	1856
Robert Campbell	Bath	November,	1858
David R. Floyd Jones	Oyster Bay	November,	1862
Thomas G. Alvord	Syracuse	November,	1864
Stewart L. Woodford	Brooklyn	November,	1866
Allen C. Beach	Watertown	November,	1868
John C. Robinson	Binghamton	November,	1872
William Dorsheimer	Buffalo	November,	1874
George Hoskins	Bennington	November,	1879
David B. Hill	Elmira	November,	1882
Dennis McCarthy <sup>6</sup>	Syracuse	January	6, 1885
Edward F. Jones	Binghamton	November	3, 1885
William F. Sheehan	Buffalo	November	3, 1891
Charles T. Saxton	Clyde	November	6, 1894
Timothy L. Woodruff	Brooklyn	November	3, 1896
Frank W. Higgins	Olean	November	4, 1902
Mathew Linn Bruce	New York	November	8, 1904
Lewis Stuyvesant Chanler	Barrytown	November	6, 1906
Horace White	Syracuse	November	3, 1908
George H. Cobb <sup>7</sup>	Watertown	October	5, 1910
Thomas P. Conway	Plattsburg	November	8, 1910

<sup>1</sup> Elected President of Senate on death of Broome.

<sup>2</sup> Elected under a special act.

<sup>3</sup> Clinton having died February 11, 1828, Pitcher became Governor; Livingston and Dayan were successively elected President of the Senate.

<sup>4</sup> Throop having succeeded Van Buren as Governor, Stebbins and Oliver were successively elected President of the Senate.

<sup>5</sup> Fish elected to fill vacancy caused by Gardiner's election as Judge of the Court of Appeals.

<sup>6</sup> McCarthy succeeded Hill upon the latter becoming Governor.

<sup>7</sup> Cobb succeeded White upon the latter becoming Governor.



## CHAPTER III

### SECRETARY OF STATE

THE duties of the Secretary of State in the early history of the Province were varied. He originally acted as treasurer and bookkeeper. He was also the clerk of all Courts and continued in this capacity until 1653. In consideration of the rapid immigration of English-speaking people, it became necessary to appoint an assistant secretary to conduct negotiations with the English, who at this time were becoming quite numerous on Long Island. Both secretaries were members of the Director's Council. Trouble arose between the Government and the English subjects on Long Island and the English Secretary was dismissed in 1654 and no new appointment was made.

The Secretaries were also called Secretary of the Crown, or to the Government of New York. There were Secretary of Province, with clerical duties only, and Secretary who sat with the Council in its advisory, legislative and judicial capacity. As Secretary of the Council, he could appoint a deputy and direct his duties. From 1665 to 1684, the Secretary's duties were of a tri-fold character— administrative, legislative and judicial — and he as well as his deputies at that time were allowed to

appear in Court as attorneys for private parties. This latter privilege, however, led to scandal under nearly every Colonial administration. The salary paid to the Secretary was small, but his fees were sufficient to make the position much sought after.

The first Legislature elected under the first Constitution of the State recognized the existence of an administrative officer called the Secretary of State. This law was passed March 16, 1778, and was the beginning of the system of cumulating offices in the hands of one officer. It purported to be an adoption of the English system, but, unlike the English system, it did not carry with it additional revenues. It was cumulation of official duties for the sake of economy.

The Legislature of 1786 created the Board of Commissioners of the Land Office, and the Secretary of State was made one of the commissioners and their secretary. In 1821, the Secretary was made superintendent of the common schools in the State. In 1827, he was made a member of State canvassers and all the clerical work connected with the canvassers was performed in his office.

As at present, the Secretary of State is keeper of the State archives, in connection with which he has numerous specific duties. He superintends the publication and distribution of the laws, and issues patents for lands, commissions, pardons and licenses, and notices for elections. In his office are filed certificates of incorporation of companies formed under general laws, except banking and insurance companies. He reports annually



to the Legislature the statistics of crime received from the several counties and upon such other subjects as may be required by law or by a resolution of either branch of the Legislature. He compiles the Legislative Manual and issues seals and badges to owners and operators of automobiles registered in his office. He administers the oath of office to members of the Legislature and other State officers. The Secretary of State is, *ex officio*, a commissioner of the Land Office and of the Canal Fund, a member of the Canal Board and of the Board of State Canvassers, a trustee of Union College, a member of the State Board of Equalization of Assessments, of the State Printing Board, is one of the officers to designate the State paper, and is the custodian of the great Seal of the State. The annual salaries of the resident officers of the State hospitals are fixed subject to his approval, together with the approval of the Governor and the Comptroller. The office was an appointive one prior to 1847; it has since been elective by the people for a term of two years. The Comptroller receives an annual salary of \$5,000. The fees of the office go into the treasury. He appoints a deputy (who is clerk of the Land Office); he also appoints one of his clerks second deputy and other necessary clerks. The seal of the office is the Arms of the State surrounded by the inscription, "State of New York — Secretary of State."

The office of Secretary of State has been held by many men who have later become prominent in the political development in our State or Union.



# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

The following is a list of the Secretaries of the State since the adoption of the State Constitution :

Name	Residence	Appointed	
John Morin Scott .....	New York .....	March	13, 1778
Lewis Allaire Scott .....	New York.....	October	23, 1789
Daniel Hale .....	Albany.....	March	24, 1793
Thomas Tillotson .....	Red Hook.....	August	10, 1801
Elisha Jenkins.....	Hudson .....	March	16, 1806
Daniel Hale .....	Albany.....	February	2, 1810
Elisha Jenkins .....	Hudson.....	February	1, 1811
Jacob R. Van Rensselaer..	Claverack .....	February	23, 1813
Peter B. Porter .....	Niagara Falls.....	February	16, 1815
Robert B. Tillotson.....	Red Hook.....	February	12, 1816
Charles D. Cooper .....	Albany.....	April	16, 1817
John Van Ness Yates.....	Albany.....	April	1818
Azariah C. Flagg.....	Plattsburg.....	April	13, 1826
John A. Dix.....	Cooperstown.....	April	1, 1833
John C. Spencer .....	Canandaigua .....	April	4, 1839
Samuel Young.....	Ballston.....	April	7, 1842
Nathaniel S. Benton .....	Little Falls .....	April	3, 1845
Elected			
Christopher Morgan .....	Auburn .....	November	2, 1847
Henry S. Randall .....	Cortland .....	November	4, 1851
Elias W. Leavenworth .....	Syracuse .....	November	8, 1853
Joel T. Headley.....	New Windsor.....	November	7, 1855
Gideon J. Tucker.....	New York.....	November	3, 1857
David R. Floyd Jones ...	South Oyster Bay ...	November	8, 1859
Horatio Ballard .....	Cortland .....	November	5, 1861
Chauncey M. Depew .....	Peekskill .....	November	3, 1863
Francis C. Barlow.....	New York.....	November	7, 1865
Homer A. Nelson .....	Poughkeepsie .....	November	5, 1867
G. Hilton Scribner .....	Yonkers.....	November	7, 1871
Diedrich Willers, jr. ....	Varick .....	November	4, 1873
John Bigelow .....	Highland Falls.....	November	2, 1875
Allen C. Beach.....	Watertown .....	November	6, 1877
Joseph B. Carr .....	Troy .....	November	4, 1879
Frederick Cook .....	Rochester .....	November	3, 1885
Frank Rice.....	Canandaigua .....	November	5, 1889

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Elected
John Palmer . . . . .	Albany . . . . .	November 7, 1893
John T. McDonough . . . . .	Albany . . . . .	November 8, 1898
John F. O'Brien . . . . .	West Chazy . . . . .	November 4, 1902
John S. Whalen . . . . .	Rochester . . . . .	November 6, 1906
Samuel S. Koenig . . . . .	New York . . . . .	November 3, 1908
Edward Lazansby . . . . .	New York . . . . .	November 8, 1911



## CHAPTER IV

### COMPTROLLER

THE Comptroller is the chief fiscal officer of the State. He is in succession to the Oppen Koopman, who prior to 1658 had been the sole custodian of all funds received and paid out by the Dutch West India Company. He was both treasurer and bookkeeper. He was followed by a Board of Audit for the Colony, which continued under the English rule until the Duke of York appointed an Auditor General. Later the General Assembly took the auditing of accounts in its own hands. During the Revolutionary period, the accounts of the Provincial convention were at first audited by a committee of that body and later financial affairs were administered by an Auditor General, Comfort Sands, who held office until 1782. The office was continued until 1797, when that of "Comptroller of the State of New York" was created and has since continued. It was an appointive office until the Constitution of 1846 went into operation and the Comptroller has since been elected by the people for a term of two years. Its responsible character has secured the services of many eminent men, William L. Marcy, Silas Wright, jr., Azariah C. Flagg, Millard Fillmore, Washington Hunt, Sanford E. Church and Lucius Robinson being among them.

The Comptroller superintends the fiscal affairs of the State. He audits all accounts against the State; draws warrants on the Treasury for the payments of the moneys directed by law to be paid out of the Treasury. He designates the banks in which funds of State officials and institutions shall be deposited. He levies and collects the tax on corporations; supervises the collection of the transfer fee in the counties in which are included a part of the forest preserve. He acts as a court in applications for cancellation of tax deeds or sales and in disputed corporation tax matter; examines the accounts of the court and trust funds deposited with the treasurer of every county in the State, and regulates the forms of accounts and the manner of the investment; appoints examiners and prescribes forms of reports under the municipal accounting law. He is, *ex officio*, a member of the State Board of Canvassers, of the Commissioners of the Canal Fund, the Canal Board, of the Commissioners of the Land Office, of the State Board of Equalization of Assessments, a trustee of Union College, a member of the State Printing Board, and is one of the officers to designate the State paper; of the Board to fix the salaries of the resident officers and employes of the State hospitals and State charitable institutions. He is elected by the people for a term of two years, receives an annual salary of \$6,000 and is allowed a deputy, a second deputy, an assistant second deputy and necessary clerks and employes. The seal of office is the Arms of





James A. Roberts

the State, surrounded by the attention of the State of New York - Comptroller.

The following is a list of the Comptrollers:

Name	Residence	Term	Year
Samuel Jones	New York	March	1814
John V. Rensselaer	Albany	March	1815
Philip Jenkins	Hudson	March	1816
Archibald McLean	Albany	March	1817
John Strong	Hudson	March	1818
William C. Rensselaer	Albany	March	1819
John T. Rensselaer	Albany	March	1820
James C. Rensselaer	Albany	March	1821
James C. Rensselaer	Albany	March	1822
James C. Rensselaer	Albany	March	1823
James C. Rensselaer	Albany	March	1824
James C. Rensselaer	Albany	March	1825
James C. Rensselaer	Albany	March	1826
James C. Rensselaer	Albany	March	1827
James C. Rensselaer	Albany	March	1828
James C. Rensselaer	Albany	March	1829
James C. Rensselaer	Albany	March	1830
James C. Rensselaer	Albany	March	1831
James C. Rensselaer	Albany	March	1832
James C. Rensselaer	Albany	March	1833
James C. Rensselaer	Albany	March	1834
James C. Rensselaer	Albany	March	1835
James C. Rensselaer	Albany	March	1836
James C. Rensselaer	Albany	March	1837
James C. Rensselaer	Albany	March	1838
James C. Rensselaer	Albany	March	1839
James C. Rensselaer	Albany	March	1840
James C. Rensselaer	Albany	March	1841
James C. Rensselaer	Albany	March	1842
James C. Rensselaer	Albany	March	1843
James C. Rensselaer	Albany	March	1844
James C. Rensselaer	Albany	March	1845
James C. Rensselaer	Albany	March	1846
James C. Rensselaer	Albany	March	1847
James C. Rensselaer	Albany	March	1848
James C. Rensselaer	Albany	March	1849
James C. Rensselaer	Albany	March	1850
James C. Rensselaer	Albany	March	1851
James C. Rensselaer	Albany	March	1852
James C. Rensselaer	Albany	March	1853
James C. Rensselaer	Albany	March	1854
James C. Rensselaer	Albany	March	1855
James C. Rensselaer	Albany	March	1856
James C. Rensselaer	Albany	March	1857
James C. Rensselaer	Albany	March	1858
James C. Rensselaer	Albany	March	1859
James C. Rensselaer	Albany	March	1860
James C. Rensselaer	Albany	March	1861
James C. Rensselaer	Albany	March	1862
James C. Rensselaer	Albany	March	1863
James C. Rensselaer	Albany	March	1864
James C. Rensselaer	Albany	March	1865
James C. Rensselaer	Albany	March	1866
James C. Rensselaer	Albany	March	1867
James C. Rensselaer	Albany	March	1868
James C. Rensselaer	Albany	March	1869
James C. Rensselaer	Albany	March	1870
James C. Rensselaer	Albany	March	1871
James C. Rensselaer	Albany	March	1872
James C. Rensselaer	Albany	March	1873
James C. Rensselaer	Albany	March	1874
James C. Rensselaer	Albany	March	1875
James C. Rensselaer	Albany	March	1876
James C. Rensselaer	Albany	March	1877
James C. Rensselaer	Albany	March	1878
James C. Rensselaer	Albany	March	1879
James C. Rensselaer	Albany	March	1880
James C. Rensselaer	Albany	March	1881
James C. Rensselaer	Albany	March	1882
James C. Rensselaer	Albany	March	1883
James C. Rensselaer	Albany	March	1884
James C. Rensselaer	Albany	March	1885
James C. Rensselaer	Albany	March	1886
James C. Rensselaer	Albany	March	1887
James C. Rensselaer	Albany	March	1888
James C. Rensselaer	Albany	March	1889
James C. Rensselaer	Albany	March	1890
James C. Rensselaer	Albany	March	1891
James C. Rensselaer	Albany	March	1892
James C. Rensselaer	Albany	March	1893
James C. Rensselaer	Albany	March	1894
James C. Rensselaer	Albany	March	1895
James C. Rensselaer	Albany	March	1896
James C. Rensselaer	Albany	March	1897
James C. Rensselaer	Albany	March	1898
James C. Rensselaer	Albany	March	1899
James C. Rensselaer	Albany	March	1900

# JAMES A. ROBERTS

Born Waterboro, Me., March 8, 1847; educated Edward Little Institute, Me., Bowdoin College, A.B. 1870, A.M., LL.D.; member of Assembly from Erie County, N. Y., 1879-80; member of Buffalo Park Commission 1891-93; State Comptroller 1894-97; director in various corporations; president New York State Historical Association; member G. A. R.; Republican; residence New York City.

Lorenz Barry	Albany	March	1814
Stanford E. Charles	Albany	March	1815
Robert Denison	Saratoga Springs	March	1816
Levi Robinson	Albany	March	1817
Thomas Hill	Albany	March	1818
William T. Allen	Albany	March	1819
Asier P. Nichols	Albany	March	1820
Nelson E. Morgan	Albany	March	1821
James R. Morgan	Albany	March	1822
Philo C. Morgan	Albany	March	1823
James W. Wadsworth	Albany	March	1824

<sup>1</sup> Referred to as James A. Roberts.

<sup>2</sup> Referred to as James A. Roberts.

<sup>3</sup> Referred to as James A. Roberts.

<sup>4</sup> Referred to as James A. Roberts.

<sup>5</sup> Referred to as James A. Roberts.





the State surrounded by the inscription, "State of New York — Comptroller."

The following is a list of the Comptrollers :

Name	Residence	Appointed	
Samuel Jones . . . . .	Oyster Bay . . . . .	March	15, 1797
John V. Henry . . . . .	Albany . . . . .	March	12, 1800
Elisha Jenkins . . . . .	Hudson . . . . .	August	10, 1801
Archibald McIntyre . . . . .	Albany . . . . .	March	26, 1806
John Savage . . . . .	Salem . . . . .	February	12, 1821
William L. Marcy . . . . .	Albany . . . . .	February	13, 1823
Silas Wright, jr. . . . .	Canton . . . . .	January	27, 1829
Azariah C. Flagg . . . . .	Albany . . . . .	January	11, 1834
Bales Cook . . . . .	Lewiston . . . . .	February	4, 1839
John A. Collier . . . . .	Binghamton . . . . .	January	27, 1841
Azariah C. Flagg . . . . .	Albany . . . . .	February	7, 1842
Elected			
Millard Fillmore <sup>1</sup> . . . . .	Buffalo . . . . .	November	2, 1847
Washington Hunt <sup>2</sup> . . . . .	Lockport . . . . .	February	17, 1849
Philo C. Fuller <sup>3</sup> . . . . .	Geneseo . . . . .	December	18, 1850
John C. Wright . . . . .	Schenectady . . . . .	November	4, 1851
James M. Cook . . . . .	Ballston . . . . .	November	8, 1853
Lorenzo Burrows . . . . .	Albion . . . . .	November	7, 1855
Sanford E. Church . . . . .	Albion . . . . .	November	3, 1857
Robert Dennison . . . . .	Salisbury Mills . . . . .	November	8, 1850
Lucius Robinson . . . . .	Elmira . . . . .	November	5, 1861
Thomas Hillhouse . . . . .	Geneva . . . . .	November	7, 1865
William F. Allen . . . . .	Oswego . . . . .	November	3, 1867
Asher P. Nichols <sup>4</sup> . . . . .	Buffalo . . . . .	June	14, 1870
Nelson K. Hopkins . . . . .	Buffalo . . . . .	November	7, 1871
Lucius Robinson . . . . .	Elmira . . . . .	November	2, 1875
Frederick P. Olcott <sup>5</sup> . . . . .	New York . . . . .	January	1, 1877
James W. Wadsworth . . . . .	Geneseo . . . . .	November	4, 1879

<sup>1</sup> Resigned on being elected Vice President.

<sup>2</sup> Appointed by Legislature; elected November 5, 1849.

<sup>3</sup> Appointed vice Hunt, elected Governor.

<sup>4</sup> Appointed vice Allen and elected in November following.

<sup>5</sup> Appointed vice Robinson, resigned; elected November 6, 1877.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Elected
Ira Davenport	Bath	November 8, 1881
Alfred C. Chapin	Brooklyn	November 6, 1883
Edward Wemple	Fultonville	November 8, 1887
Frank Campbell	Bath	November 3, 1891
James A. Roberts	Buffalo	November 7, 1893
William J. Morgan	Buffalo	November 8, 1898
Theodore P. Gillman <sup>6</sup>	New York	September 10, 1900
Erastus C. Knight	Buffalo	November 6, 1900
Nathan L. Miller <sup>7</sup>	Cortland	December 30, 1901
Otto Kelsey <sup>8</sup>	Geneseo	November 8, 1904
William C. Wilson <sup>9</sup>	New York	November 8, 1906
Martin H. Glynn	Albany	November 6, 1906
Charles H. Gaus	Albany	November 3, 1908
Clark Williams <sup>10</sup>	New York	November 12, 1909
William Sohmer	New York	November 8, 1910

<sup>6</sup> Appointed to fill vacancy caused by death of William J. Morgan.

<sup>7</sup> Appointed vice Erastus C. Knight, resigned; elected November 4, 1902.

<sup>8</sup> Appointed November 12, 1903, vice Nathan L. Miller, resigned.

<sup>9</sup> Acting Comptroller from May 17 to November 8, 1906, vice Otto Kelsey, resigned.

<sup>10</sup> Appointed to fill vacancy caused by death of Charles H. Gaus.

## CHAPTER V

### STATE TREASURER

IN 1627, Isaac De Raziere, as Treasurer of the Province of New Netherlands, introduced into the New England Colonies the fiat money, called wampum. The inhabitants at that time called this "The devil's work and money"; however, it remained for nearly a century the currency in which dues to the Government were paid. The revenues of the Province in 1680 were three thousand pounds. These revenues were paid to the Collector of Customs who, in turn, accounted to the Auditor General of Plantations in England. This method finally came into disfavor in consequence of the culpable extravagance, if not dishonesty, of the Government and its subordinates, which so exasperated the General Assembly that it took charge of the auditing of expenditure and placed the funds in custody of the Treasurer appointed by it. The Treasurer, therefore, was the one general officer of the Colonies selected by their representatives. A Treasurer was appointed by the Provincial convention and the Treasurer of the State by the Legislature until the adoption of the Constitution of 1846.

The Treasurer is custodian of all moneys paid into the State treasury, and moneys owing by the State are

paid by him upon proper warrants. He is a commissioner of the Land Office, a commissioner of the Canal Fund, a member of the State Board of Equalization of Assessments and is one of the officers to designate the State paper. No transfer of securities held by the Superintendent of the Insurance Department or by the Superintendent of the Banking Department is valid unless countersigned by the Treasurer. He is also vested by law with certain special powers in regard to the sale and conversion of securities held by the Superintendent of the Insurance Department in trust for insolvent insurance companies. Under the provisions of the Constitution, the Treasurer may be suspended from office by the Governor during the recess of the Legislature and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that the Treasurer has in any particular violated his duty.

The Governor is authorized to appoint a competent person to discharge the duties of the office during a suspension of the Treasurer. He is elected by the people for a term of two years, receives an annual salary of \$5,000, and is allowed a deputy, a bookkeeper and necessary clerks. The seal of the office is the Arms of the State surrounded by the inscription, "State of New York — Treasurer."

The following is the list of State Treasurers, appointive until 1847 and thereafter elective:

Name	Residence	Appointed
Peter B. Livingston.....	New York.....	September 17, 1776
Gerardus Bancker.....	New York.....	April 1, 1778

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Appointed
Robert McClallen . . . . .	Albany . . . . .	March 16, 1798
Abraham G. Lansing . . . . .	Albany . . . . .	February 8, 1803
David Thomas . . . . .	Salem . . . . .	February 5, 1808
Abraham G. Lansing . . . . .	Albany . . . . .	February 8, 1810
David Thomas . . . . .	Salem . . . . .	February 18, 1812
Charles Z. Platt . . . . .	Albany . . . . .	February 10, 1813
Gerret L. Dox . . . . .	Albany . . . . .	February 12, 1817
Benjamin Knower . . . . .	Albany . . . . .	January 29, 1821
Abraham Keyser, jr. . . . .	Schoharie . . . . .	November 25, 1824
Gamaliel H. Barstow . . . . .	Nichols . . . . .	February 16, 1825
Abraham Keyser . . . . .	Schoharie . . . . .	February 14, 1826
Gamaliel H. Barstow . . . . .	Nichols . . . . .	February 5, 1838
Jacob Haight . . . . .	Catskill . . . . .	February 4, 1839
Thomas Farrington . . . . .	Owego . . . . .	February 7, 1842
Benjamin Enos . . . . .	De Ruyter . . . . .	February 3, 1845
Thomas Farrington . . . . .	Owego . . . . .	February 2, 1846

## Elected

Alvah Hunt . . . . .	Greene . . . . .	November 2, 1847
James M. Cook . . . . .	Ballston Spa . . . . .	November 4, 1851
Benjamin Weleh, jr. . . . .	Buffalo . . . . .	November 20, 1852
Elbridge G. Spaulding . . . . .	Buffalo . . . . .	November 8, 1853
Stephen Clark . . . . .	Albany . . . . .	November 7, 1855
Isaac V. Vanderpool . . . . .	Buffalo . . . . .	November 3, 1857
Phillip Dorsheimer . . . . .	Buffalo . . . . .	November 8, 1859
William B. Lewis . . . . .	Brooklyn . . . . .	November 5, 1861
George W. Schuyler . . . . .	Ithaca . . . . .	November 3, 1863
Joseph Howland . . . . .	Matteawan . . . . .	November 7, 1865
Wheeler H. Bristol . . . . .	Owego . . . . .	November 5, 1867
Thomas Raines . . . . .	Rochester . . . . .	November 7, 1871
Charles N. Ross . . . . .	Auburn . . . . .	November 2, 1875
James Mackin . . . . .	Fishkill-on-the-Hudson . . . . .	November 6, 1877
Nathan D. Wendell . . . . .	Albany . . . . .	November 6, 1879
Robert A. Maxwell . . . . .	Batavia . . . . .	November 8, 1881
Lawrence J. Fitzgerald . . . . .	Cortland . . . . .	November 3, 1885
Elliot Danforth . . . . .	Bainbridge . . . . .	November 5, 1889
Addison B. Colvin . . . . .	Glens Falls . . . . .	November 7, 1893
John P. Jaeckel . . . . .	Auburn . . . . .	November 8, 1898

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Elected
John G. Wickser.....	Buffalo .....	November 4, 1902
John G. Wallenmeier, jr.	Tonawanda .....	November 8, 1904
Julius Hauser.....	Sayville .....	November 6, 1906
Thomas B. Dunn .....	Rochester .....	November 3, 1908
John J. Kennedy.....	Buffalo .....	November 8, 1910



## CHAPTER VI

### ATTORNEY GENERAL

A copy of the Schouts-Roll of Amsterdam, which is now in the State Library, shows that in the New Netherland's era the Schout-Fiscal performed duties which at the present time are equivalent to those of Sheriff and Attorney General. He was entitled to a seat in the Council, but had no vote. Nevertheless, the office was the most responsible in the Colony, and his appointment was made by the Directors of the West India Company, Chamber of Amsterdam, and his successors under the English rule were made by the home Government after 1702. The English Attorney General not only attended to the ordinary duties for the Government, but prepared letters-patent for corporations, grants of land, etc., the fees from which made his office highly lucrative. During the first thirty years of the English period the administration had another law officer, the Advocate General, who represented the Government in the Admiralty. His office was merged in that of the Attorney General in 1700.

May 3, 1777, the Provincial convention elected the first Attorney General of the State, Egbert Benson. The third Constitution made him an elective officer like the other heads of the Departments.



In consequence of the rapid increase in wealth and population the Attorney General's office has become one of the most important in the State government.

The duties of the Attorney General's office, as at present constituted, is to prosecute and defend all actions and proceedings in which the State is interested and have charge and control of all the legal business of the officers and departments of the State, except the Military Department. Whenever required by the Government, he must attend a Court of Oyer and Terminer, or before the grand jury thereof, for the purpose of managing and conducting such criminal actions or proceedings as shall be specified in such requirement.

In addition to the duties with which he is charged as the law officer of the State, the Attorney General is a commissioner of the Land Office and of the Canal Fund, a member of the Canal Board, the Board of State Canvassers, the State Board of Equalization of Assessments, the State Printing Board, and an *ex-officio* member of the board of trustees of Union College and the New York State Soldiers' and Sailors' Home. The Attorney General, in person or by deputy, attends each session of the Court of Claims on behalf of the State, and prepares all cases on the part of the State for hearing, argues the same when prepared, and causes testimony to be taken when necessary to secure the interest of the State. He prepares forms, files interrogatories, and superintends the taking of testimony in the manner prescribed by the Court, and generally renders such service as may

be necessary to further the interests of the State in all cases before that Court and in the Court of Appeals on appeal from awards made by the Court of Claims. He is elected by the people for a term of two years, receives an annual salary of \$5,000, and is allowed a first and a second deputy and he may appoint such other deputies and clerks as may be necessary. The seal of the office is the Arms of the State surrounded by the inscription, "State of New York — Attorney General."

The following is the list of Attorneys General appointive until 1847, elective thereafter:

Name	Residence	Appointed
Egbert Benson.....	Jamaica.....	May 8, 1777
Richard Varick.....	New York.....	May 14, 1788
Aaron Burr.....	New York.....	September 29, 1789
Morgan Lewis.....	Rhinebeck.....	November 8, 1791
Nathaniel Lawrence.....	Hempstead.....	December 24, 1792
Josiah Ogden Hoffman...	New York.....	November 13, 1795
Ambrose Spencer.....	Hudson.....	February 3, 1802
John Woodworth.....	Albany.....	February 3, 1804
Matthias B. Hildreth....	Johnstown.....	March 18, 1808
Abraham Van Vechten....	Albany.....	February 2, 1810
Matthias B. Hildreth....	Johnstown.....	February 1, 1811
Thomas Addis Emmett...	New York.....	August 12, 1812
Abraham Van Vechten....	Albany.....	February 13, 1813
Martin Van Buren.....	Kinderhook.....	February 17, 1815
Thomas J. Oakley.....	Poughkeepsie.....	July 8, 1819
Samuel A. Talcott.....	Utica.....	February 12, 1821
Greene C. Bronson.....	Utica.....	February 27, 1829
Samuel Beardsley.....	Utica.....	January 12, 1836
Willis Hall.....	New York.....	February 4, 1839
George P. Barker.....	Buffalo.....	February 7, 1842
John Van Buren.....	Albany.....	February 3, 1845

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Elected
Ambrose L. Jordan.....	Hudson .....	November 2, 1847
Levi S. Chatfield .....	Laurens.....	November 6, 1849
Gardiner Stow .....	Troy .....	December 8, 1853
Ogden Hoffman.....	New York.....	November 8, 1853
Stephen B. Cushing .....	Ithaca .....	November 7, 1855
Lyman Tremain .....	Albany.....	November 3, 1857
Charles G. Myers .....	Ogdensburg .....	November 8, 1859
Daniel S. Dickinson .....	Binghamton .....	November 5, 1861
John Cochrane.....	New York .....	November 3, 1863
John H. Martindale .....	Rochester .....	November 7, 1865
Marshall B. Champlain .....	Cuba .....	November 5, 1867
Francis C. Barlow.....	New York.....	November 7, 1871
Daniel Pratt .....	Syracuse .....	November 4, 1873
Charles S. Fairchild .....	Albany.....	November 2, 1875
Augustus Schoonmaker, jr. ....	Kingston.....	November 6, 1877
Hamilton Ward .....	Belmont .....	November 4, 1879
Leslie W. Russell.....	Canton .....	November 8, 1881
Denis O'Brien .....	Watertown .....	November 6, 1883
Charles F. Tabor.....	Buffalo .....	November 8, 1887
Simon W. Rosendale.....	Albany.....	November 3, 1891
Theodore E. Hancock .....	Syracuse .....	November 7, 1893
John C. Davies .....	Camden.....	November 8, 1898
John Cunneen .....	Buffalo .....	November 4, 1902
Julius M. Mayer .....	New York.....	November 8, 1904
William S. Jackson.....	Buffalo .....	November 6, 1906
Edward R. O'Malley .....	Buffalo .....	November 3, 1908
Thomas F. Carmody .....	Penn Yan.....	November 8, 1910

## CHAPTER VII

### STATE ENGINEER AND SURVEYOR

IN 1642 a "Land Meeter" (Land Measurer) was appointed by the Director and Council of the Dutch Colonists of New Netherland. He received a salary of \$80 per year with an additional fee of ten shillings per diem, two stivers (four cents) per morgen, two acres. Toward the end of the Dutch period, in fact, during the whole of the English period, in consequence of the steadily increasing population and the agricultural development of the country, the services of an official Surveyor made the office a very profitable one. He became a member of the Government in Council, sitting as a commissioner of the Land Office in 1788.

After the Revolutionary War, the office of Surveyor General was renewed under the State government by act of March 20, 1781. Under the first Constitution he was Commissioner of the Land Office and the Canal Fund, and the Constitution of 1821 made him a member of the State Board of Canvassers. Numerous and special duties were imposed on him relative to the sale and settlement of lands and the adjustment of Indian titles and other internal land matters.

The Constitution of 1846 abolished the office of Surveyor General. The State Engineer and Surveyor

possesses the powers with which the Surveyor General was formerly charged, except that of commissioner of the Canal Fund, and, in addition, he has general duties relative to the public lands and canals not required of the former officer. He is a commissioner of the Land Office, a member of the Canal Board, the Board of State Canvassers and the State Board of Equalization of Assessments. His department has charge of all engineering in connection with State work, except that pertaining to highways; he appoints three division engineers, resident engineers and all subordinate engineers. In 1886, the Legislature directed that the records and property of the State Surveyor be deposited in the office of the State Engineer and Surveyor. Prior to 1883 the railroads operated in the State were required to report the condition of their affairs to the State Engineer and Surveyor, but in that year the supervision of these corporations was transferred to the Board of Railroad Commissioners. The State Engineer and Surveyor is elected by the people for a term of two years, receives an annual salary of \$5,000, and is allowed a deputy and necessary clerks. The seal of the office is the Arms of the State surrounded by the inscription, "State of New York—State Engineer and Surveyor."

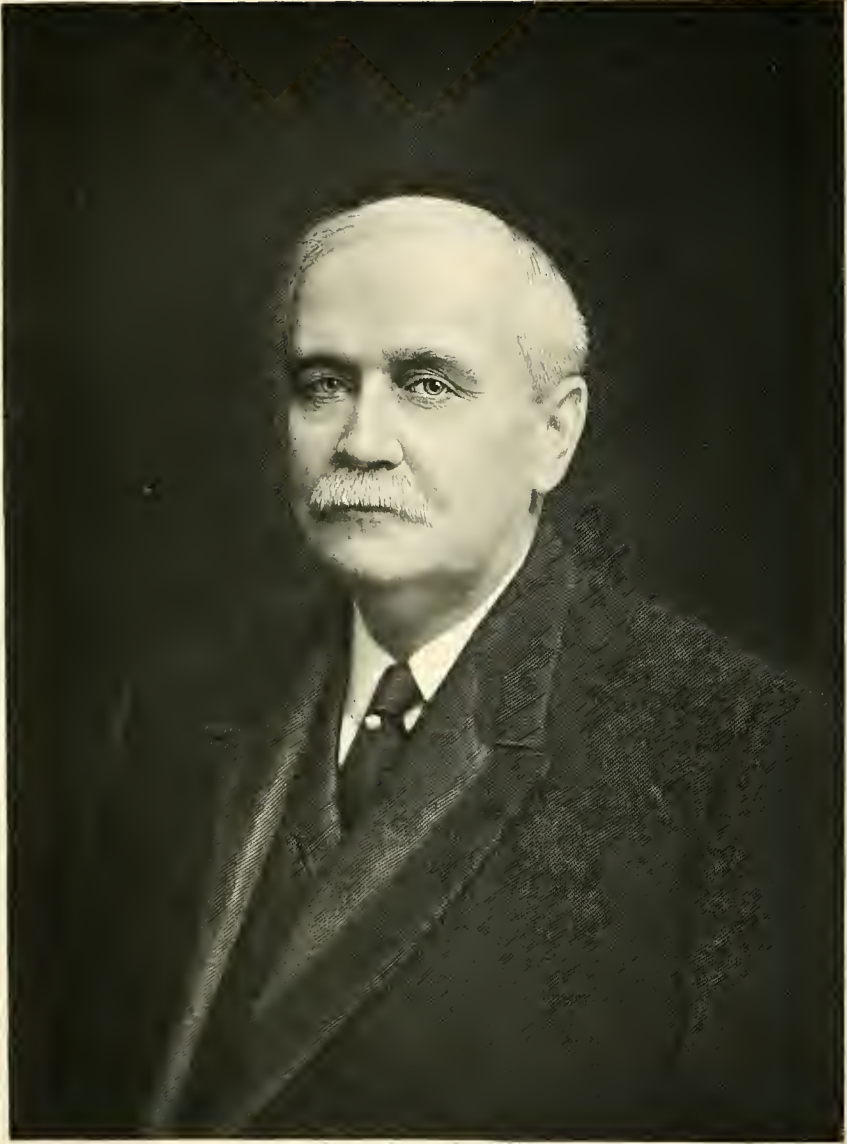
The following is the list of Surveyors General and State Engineers and Surveyors:

## SURVEYORS GENERAL

Name	Residence	Appointed
Phillip Schuyler .....	Albany.....	March 30, 1781
Simeon De Witt.....	Albany.....	May 13, 1784







Edward A. Bond

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Appointed
Simeon De Witt	Albany	February 8, 1823
William Campbell	Cherry Valley	January 20, 1835
Orville L. Holley	Albany	February 5, 1838
Nathaniel Jones	Newburg	February 7, 1842
Hugh Halsey	Bridgehampton	February 3, 1845

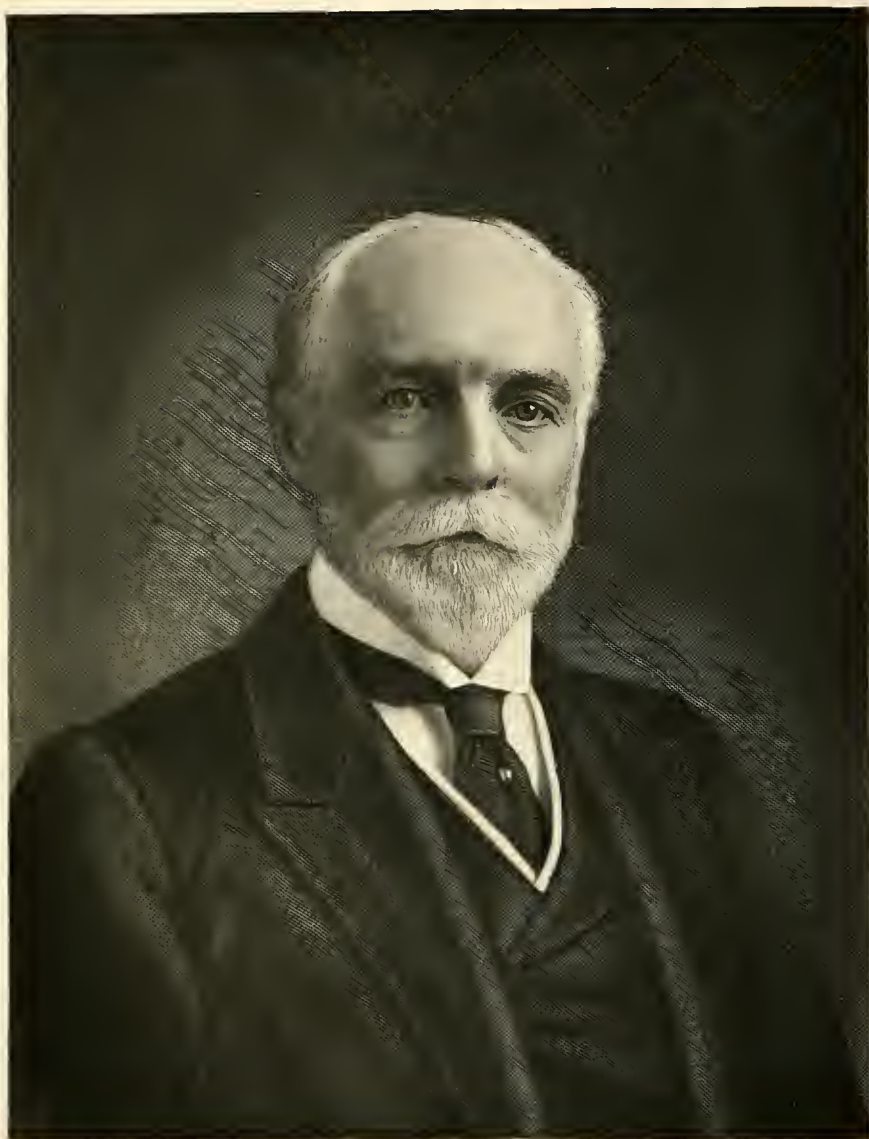
## STATE ENGINEERS AND SURVEYORS

Name	Residence	Elected
Charles B. Stuart	Geneva	November 2, 1847
Hezekiah C. Seymour	Nyack	November 6, 1849
William J. McAlpine	Albany	November 4, 1851
Henry Ramsey	Schenectady	December 10, 1853
John T. Clark	Utica	November 8, 1853
Silas Seymour	Piermont	November 7, 1855
Van Rensselaer Richmond	Lyons	November 3, 1857
William B. Taylor	Utica	November 5, 1861
J. Platt Goodsell	Utica	November 7, 1865
Van Rensselaer Richmond	Lyons	November 5, 1867
William B. Taylor	Utica	November 7, 1871
Sylvanus H. Sweet	Albany	November 4, 1873
John D. Van Buren, jr.	New York	November 2, 1875
Horatio Seymour, jr.	Utica	November 6, 1877
Silas Seymour	Saratoga Springs	November 8, 1881
Elnathan Sweet	Albany	November 6, 1883
John Bogart	New York	November 8, 1887
Martin Schenck	Greenbush	November 3, 1891
Campbell W. Adams	Utica	November 7, 1893
Edward A. Bond	Watertown	November 8, 1898
Henry A. Van Alstyne	North Chatham	November 8, 1904
Frederick Skene	Long Island City	November 6, 1906
Frank M. Williams	Oneida	November 3, 1908
John A. Bense	New York	November 8, 1910









L. S. H. W. D.

Whitelaw Reid  
" 4

## CHAPTER VIII

# EDUCATION DEPARTMENT

BY THE EDITOR

THE educational policy of the State of New York has been of a dual character — public maintenance and control of elementary education; individual support of higher education, under State supervision, with secondary education partly at private and partly at public expense. The distinctions and relations between the two systems here indicated will appear more clearly in a review of our educational history prior to that of the period to be treated specifically.

New York is entitled to primacy in the erection of the common school in the land. And it was not merely the accident of primordial settlement that enabled the Dutch to anticipate their New England neighbors in appreciating responsibility for the education of the young and in supplying means to that end. The public school, unknown in England, was an institution of the Dutch republic, the most thoroughly educated, as well as the freest, nation of Europe in the opening years of the seventeenth century. The charter of "Freedoms and Exemptions," issued by the Dutch West India Company, June 7, 1629, to "all such as should colonize New Netherland," contained the famous prescription that "the

patrons and colonists shall in particular, and in the speediest manner, endeavor to find out ways and means whereby they may support a minister and schoolmaster." This was reaffirmed in the "New Project of Freedoms and Exemptions," in 1630, and in 1633 a school was started in New Amsterdam, with Adam Roelandsen as its master, which has, through various succession, continued and is now the "oldest existing school in America." It was maintained at the first by the gratuities of the Company, general taxation and ratable tuition fees — a scheme upon which no essential improvement was made until 1867, when the elementary schools of New York became wholly free. In 1640, the Company formally declared that it would "promote and maintain good and suitable ministers, schoolmasters and comforters of the sick." As towns were laid out on Long Island and along the Hudson, it was the practice to reserve lots for school sites and houses were built thereon. There were, during the Dutch régime, schools at Flatbush, Newtown, Hempstead, Southampton, Brooklyn, Kingston and other places. The Dutch had the common school, if not a common school system. It is also of record that, in 1658, Rector Curtius came to the province as the principal of a Latin, or grammar, school provided by the Company, but it had brief being. Under English rule the common school languished. Although some of the earlier Governors issued licenses to teachers and compelled communities to pay their salaries, thus recognizing the public school, its chief vitality was due to the "Society

for the Propagation of the Gospel in Foreign Parts," which was, and still is, a missionary body of the Church of England. Between 1704 and 1775, it employed about 60 teachers, the pupils being mainly from poor families, including quite a proportion of slaves. These schools were, however, without system or supervision; sporadic, instead of permanent, and without governmental sanction. Three acts comprehend all that English Colonial Legislatures did for education: two were in behalf of the high school — in 1702 and 1732, respectively — and one in aid of Kings College. Higher education in the Colony found its sole expression in the college, which received a Royal charter in 1754, the appropriations from the Legislature of funds derived mainly from public lotteries, grants of land from Trinity Church and individual gifts; graduated its first class in arts in 1758 and suspended its activities during the Revolution. Its charter was reaffirmed by the State in 1784, its corporate name being changed to that of Columbia College and its government vested in the Regents of the University.

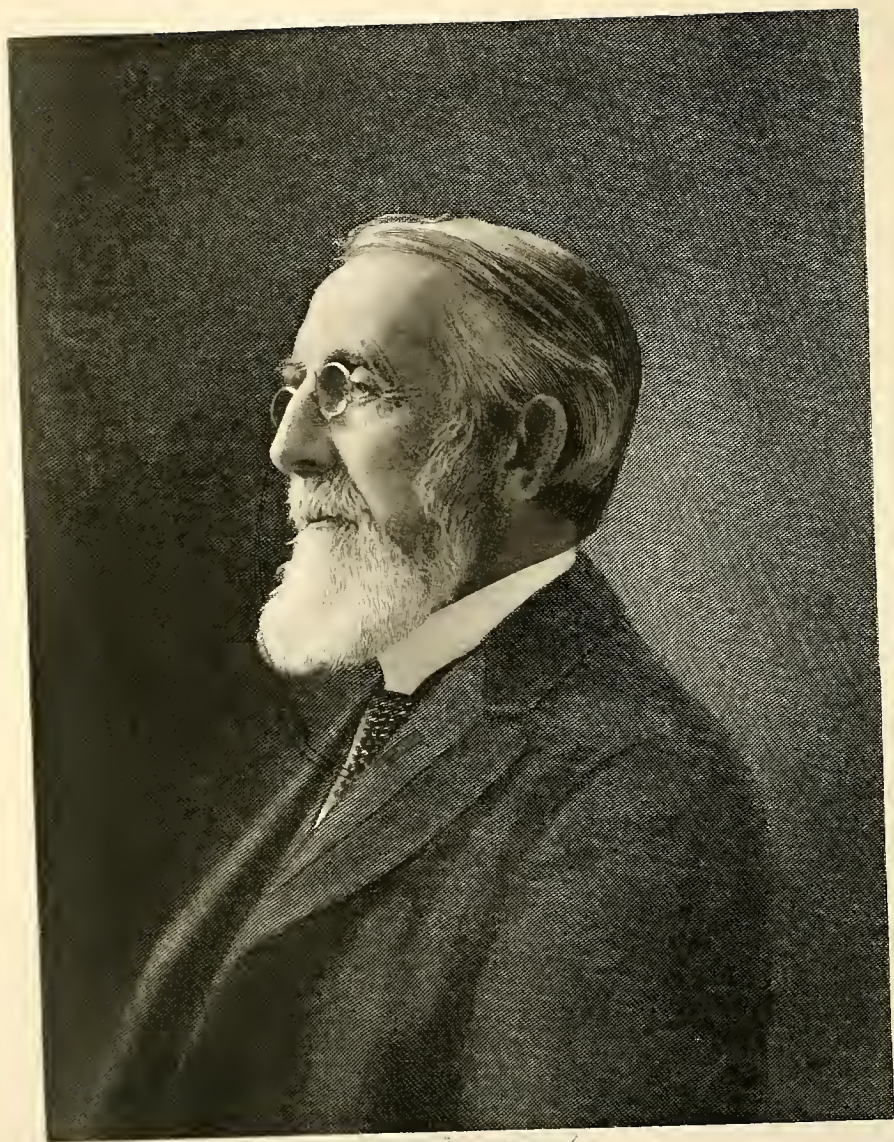
With independence and statehood, New York at once manifested a lively interest in the education of her youth and measures for its promotion were taken, resulting in the establishment of the two systems already mentioned, with her pronounced leadership in the progress of popular education in the country. Although the first Constitution was silent concerning education, legislation in its interest began so early as 1781, when public lands were set apart for the support of the gospel and public

schools. This policy was continued by subsequent acts until 1801. The receipts arising from the sales of the lands thus reserved, and known as "the gospel and school fund," are still available and administered in various counties. In 1795, at the instance of Governor George Clinton, "an act for the encouragement of schools" was passed, providing that \$100,000 should be annually appropriated for five years, for the purpose of encouraging and maintaining schools in the several cities and towns in this State, "in which the children of the inhabitants residing in the State shall be instructed in the English language, or be taught English grammar, arithmetic, mathematics and such other branches of knowledge as are most useful and necessary to complete a good English education." In 1801, it was enacted that \$100,000 should be raised annually by lotteries, \$87,500 of which should be used for the benefit of common schools; and, in 1805, that 500,000 acres of the vacant and unappropriated lands of the State should be sold and the avails thereof made a permanent school fund, when the interest thereon shall amount to \$50,000, each locality participating therein being required to raise by tax a sum equal to that which it received under the law. This is known as the common school fund. As yet, however, there was no State school supervision or regulation. These came by the law of 1812, one of the wisest and most comprehensive educational statutes ever framed and the one which clearly entitles New York to her second educational primacy, in a State system, with a









Andrew D. White

### ANDREW D. WHITE

Born Homer, N. Y., November 7, 1832; first president of Cornell University; educated at Hobart and Yale Colleges; Yale A.B. 1853, A.M. 1856; LL.D. Yale, University Michigan, Dartmouth, Johns Hopkins, St. Andrews (Scotland), Ph. D. (Jena), L.H.D. (Columbia), D.C.L. Oxford; professor English History University Michigan, 1857-63; State senator, New York 1863-67; president Cornell 1867-85; Presidential elector 1872; delegate to national Republican convention 1872 and 1884; minister to Germany 1879-81; minister to Russia 1892-94; ambassador to Germany 1897-1902; president American delegation at The Hague, in 1890; regent Smithsonian Institution; trustee Carnegie Institution, Washington; first president American Historical Association; trustee Cornell University; member Royal Society, Berlin, Massachusetts Historical Society; Officer Legion d'Honneur, France; editor of various works; Republican.

1917

Born at New York, N.Y. in 1874.  
Graduated from the University of  
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single responsible head. By it, school districts, with trustees, commissioners and inspectors, were defined; the interest of the school fund was distributed ratably; corresponding local taxation was prescribed; teachers were required to be examined and licensed, and the whole system was placed under a State superintendent. Gideon Hawley, the first superintendent, was happily a great educator, with rare genius for organization. He is rightfully called "the father of the common school system in the State." When he retired, in 1821, he had laid broadly and deeply the foundations of a symmetrical educational structure; had secured judicious amendments to the school laws; had advised and substantially shaped their codification in 1819; had 6,323 school districts under his supervision, with 317,633 children in attendance. The public bounty was sufficient to defray the expenses of the schools for about three months in the year, and the principal of the school fund amounted to \$1,185,642. By the Constitution of 1821, the common school fund was declared perpetual. The Council of Appointment, which had designated the superintendent, including the successor to Gideon Hawley, who had but slight service, was abolished and, by legislation, the Secretary of State was charged with the duties of that office, which he continued to exercise until 1854, when the Department of Public Instruction was constituted.

The administration of the Secretaries, among whom were some of the most eminent citizens of New York, was of a high order, in the constantly increasing expansion



and efficiency of the common school system. A few of the things accomplished under them may be noted. In 1837, New York dedicated its share — \$4,014,520.71 — of the fund distributed by the general government to the several States, from the surplus moneys in the treasury, to educational purposes ; and, by the Constitution of 1846, \$25,000 was directed to be taken annually from the income of this fund and added to the principal of the common school fund. This is still a constitutional mandate. In 1840, county superintendents, appointive biennially by boards of supervisors, came into being, but their existence terminated in 1847, town superintendents being substituted in their stead. In 1842, the schools of New York City became wholly free and, in 1848, one-fourth of the schools of the State, mainly those of the cities, had also been made free. The movement, however, for State-wide free schools, proceeded, urged by Governors, superintendents and prominent educators, and had expression in the so-called free school law of 1849, subsequently declared unconstitutional, and in the law of 1851, still retaining the rate bill, but the true free school waited sixteen years before it materialized. The schools meanwhile were supported by the three funds previously mentioned, by local and State taxation and by rate bills, i. e., by tuition fees paid by parents or guardians able to do so, to make up deficiencies. In 1843, the first teachers institute, subsequently to become a valuable educational force, was held in Ithaca, and since 1847 institutes have been maintained by the

State. The first normal school, now the State Normal College, was founded in Albany in 1844. In 1853, union free schools, which have gradually, but surely, supplanted or incorporated in themselves the academies, were established. During the last year (1853-54) of the Secretary's administration, \$2,469,248.52 were expended on the schools, of which \$1,931,870.18 were for teachers' wages, \$98,990.78 for libraries and \$308,895.-65 for the purchase of school<sup>\*</sup> sites and buildings and the rent and repair of school-houses. The principal of the common school fund was \$2,383,257.23, the number of school districts 14,780, and the children taught 866,935.

The act of 1854, erecting the Department of Public Instruction, with a Superintendent, elected by joint ballot of the Legislature, for a term of three years — a reversion to the order of 1812 — made it a separate bureau of the State government and invested it with an authority and a dignity which it could not attain as an adjunct of the office of the Secretary of State, however intelligently administered. The Superintendent was given ample and, in some respects, even autocratic, jurisdiction and, by unwritten law, he was, throughout, one who was familiar with educational needs and responsibilities by experience in or identification with the teaching profession. The notable achievements of the Department of Public Instruction prior to 1883 were the formation, in 1856, of school districts substantially coterminous with Assembly districts, excluding cities with local boards of education, with a commissioner for each district elected

by the people for a term of three years; the building of normal schools at Oswego, Cortland, Fredonia, Potsdam, Geneseo, Brockport and Buffalo between 1863 and 1867; the beginning of training schools in 1863; and the abolition, in 1867, of the rate bill, with schools made wholly free throughout the State, the chief credit for which belongs to Victor M. Rice, then superintendent. The cost of maintaining the schools for the school year of 1882-83 was \$11,183,027.42, of which \$7,986,261.31 were expended for teachers' wages; \$1,525,426.19 for school-houses and sites; \$35,805 for libraries, and \$190,982.82 for school apparatus. The number of teachers employed was 20,902 and that of children instructed 1,681,161.

For more than a century, the institutions of higher education in New York have been within the purview, but not the control, of the State, and that under the corporation known as "The Regents of the University of the State of New York." The State has been quite consistent in its adherence to the voluntary principle as applied to the operation of these institutions; and that principle, as illustrated in the magnificent endowments of her universities and the liberal benefactions to her colleges, has been sufficient for the maintenance and advancement of higher education in the State. It is true, indeed, that this was not the original conception of the corporation, as expressed in the act of 1784, creating it. It rather fashioned a congeries of colleges, constituting the University, to be administered and sustained by

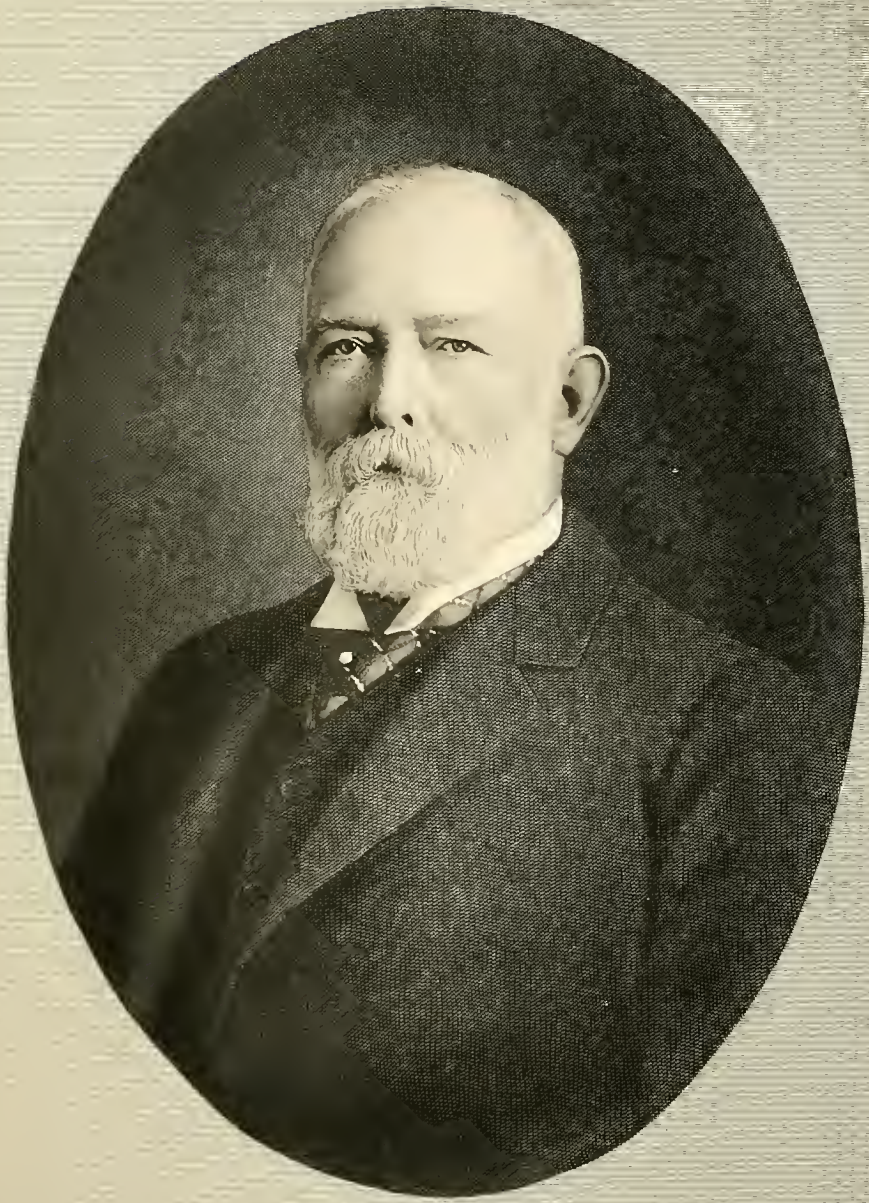
the State — a plan similar in several of its features to that of an English university. Thus, the corporate rights of Columbia College were vested in the Regents, as its trustees, and they were also empowered to charter additional colleges and to found academies. This scheme, for various reasons, mainly because of the desire of Columbia College to be self-governing, encountered severe criticism, and the Regents were reorganized in 1787, the colleges thereafter chartered being substantially self-sustaining, as well as self-governing. The law provided that there should be nineteen Regents, elected by the Legislature, with life tenures, with the Governor and Lieutenant Governor, and later the Secretary of State and the Superintendent of Public Instruction as members of the board *ex officio*. The Regents were authorized to charter and inspect colleges and academies, but these were to choose their own trustees and to manage their own internal affairs. Charters were, however, revocable for cause duly shown. For some time the State did appropriate moneys to the colleges, amounting in the aggregate to nearly \$900,000, but the trend was more and more toward their self-support, until it became the settled policy of the State; and, with the exception of the maintenance of special departments in Cornell, St. Lawrence and Alfred Universities, no State aid has been accorded to institutions of higher education for many years. The Board of Regents is now 123 years old, has been composed of many distinguished and some illustrious citizens, serving without compensation, has



been uniformly well officered and has discharged its functions intelligently and efficiently. In the year 1881-82 there were 22 colleges of arts, with 363 instructors and 3,769 students; 15 medical colleges, with 258 instructors and 3,127 students; four law schools, with 24 instructors and 609 students, and three schools of science, with 70 instructors and 3,359 students component in the University. These institutions possessed property in buildings and grounds to the amount of \$7,931,977.76; in libraries and apparatus, \$1,577,406.32; and in other property, \$14,385,245.72 — a total of \$23,894,630.15, with debts aggregating \$938,687.54. Their revenues, as reported, were \$1,492,924.24 and their expenditures were \$1,726,824.03. The amount distributed from the literature fund by the Regents was—to academies (84) and to academic departments of union schools (173), \$40,000.

William B. Ruggles, a graduate of Hamilton College, who had represented Steuben county in the Assembly for two years, became Superintendent of Public Instruction, April 7, 1883, and served until January 1, 1886, when he resigned, and his deputy, James E. Morrison, succeeded for the remainder of the term. The administration of Mr. Ruggles was an intelligent one, distinguished, perhaps, more than anything else, by his frank change of sentiment toward the normal schools which he had severely criticised in the Assembly. In his first annual report, he stated that his views in regard to their efficiency had been essentially modified and that he hoped the anticipations of their friends as to their usefulness





*Daniel Beach*

would be realized. He also held that, as a part of the free school system, they might be considered as permanently established; and, in 1885, with his cordial concurrence, another normal school was instituted at New Paltz. In his last annual report, Superintendent Ruggles presented so clear a conspectus of the powers of his office, which inhered in it without material alteration until it was resolved into that of the Commissioner of Education, by the unification act of 1904, that it is here pertinent to make an abstract thereof. He has the appointment of all office subordinates, institute conductors and instructors, superintendents of Indian schools, the local boards of the State normal schools and the teachers in the same (except Albany), on the nomination of local boards, the pupils in the normal departments of these schools on the recommendation of commissioners, and the State pupils in the institutions for the deaf and dumb and the blind. He apportions and distributes to the several counties, cities and school districts the moneys annually appropriated from the several educational funds. He pays, through warrant of the State Treasurer, the salaries of the subordinates of his department, including the district commissioners. He designates the times and places for holding teachers' institutes and assigns conductors and instructors thereto and supervises the examinations of teachers. He also adjusts, settles and determines all controversies and legal issues arising from the execution of the school laws in the cities, villages and school districts. "I am not aware," Mr. Ruggles says,



“ of the existence of any other judicial tribunal in this State which is entrusted with such absolute judicial power over matters within the scope of its jurisdiction.” Within his province, the Superintendent was, indeed, an autocrat — and properly so — for the fit and orderly conduct of the school system.

Andrew S. Draper, a lawyer, a graduate of the Albany Academy, who had been a teacher, a member of the Albany board of education and an Assemblyman, assumed the superintendency April 6, 1886, and was re-elected in 1889, his tenure expiring April 7, 1892. His administration, distinguished for its vigor and capacity throughout, was notable also for several signal achievements. Among these were the transfer of teachers' classes from the Regents, in whose hands they had been since 1845, to those of the Superintendent; the changing of county to district institutes; the publication of a new code of public instruction; the monthly payment of teachers' wages made compulsory; competitive examinations by Assembly districts for free scholarships in Cornell University; the increase of State appropriations for free schools by \$1,000,000; the chartering of the normal schools at Oneonta and Plattsburg; and, above all, the ordination of uniform examinations of teachers — an especially salutary departure from the partial, confused, insufficient and, in too many cases, the corrupt practices previously obtaining, with resultant improvement in the character and capacity of the teaching force.

James F. Crooker, who had been a teacher in and superintendent of the schools of Buffalo, succeeded Doctor Draper for one term, his service ending April 7, 1895. Mr. Crooker was a staunch champion of the common school system and emphatically declared his hostility to the dual plan. He may fairly be regarded as the herald, if not the promoter, of the friction between the two educational departments which subsequently became acute. In his last annual report he said:

“This double-headed educational management is the most peculiar feature in this State or in any other. No other department in the State has two heads for the management of its affairs. It is an anomaly. One branch distributes a portion of the school funds in its own way, according to its own peculiar and independent rules, while the other apportions another part in accordance with the statutory laws governing it. \* \* \* The State appropriation yearly, for the support of the Regents, is over \$185,500. This I consider an useless expense so far as the interest of a great majority of the public schools is concerned, although it may be of financial benefit to these few. I must, therefore, protest once more against the dual system and plan of taking away any portion of the State moneys from the common school fund for the purpose of sustaining two educational departments and practicing favoritism toward one branch of the school system at the expense of another. It is radically and inexcusably wrong.”

Superintendent Crooker is to be credited with one very beneficial change in the examinations department, viz., securing the appointment of a board of examiners to pass upon the papers submitted by applicants for teachers' certificates, which had previously been in charge of the commissioners and not valid outside their respective districts.

Mr. Crooker retired April 7, 1895, and was succeeded by Charles R. Skinner who, being twice re-elected, retained his office until April 1, 1904, and was the last Superintendent of Public Instruction. He had already seen much public service as Assemblyman, representative in Congress, deputy superintendent of public instruction and supervisor of teachers' institutes and training classes. He was, therefore, fully acquainted with the workings of the common school system and brought to the discharge of his duties as Superintendent a marked enthusiasm in the cause of popular education, a sincere devotion to its interests and a forceful way of promoting them. He was zealous in upholding the integrity of his department against assaults upon it and consistently advocated the placing of all tax-supported schools wholly within its control. Thus, in his annual report in 1899, he says:

"The legislation of 1853 permitting the organization of academic departments in certain public schools is primarily responsible for this anomalous condition of our school system. \* \* The public school, maintained by public taxation, no matter where it is situated, ought to be under the supervision and control of a single department of the State government. To maintain two departments to perform the work, which could better be done by one, with greater economy to the State and more efficiency, is so plainly unwise and against all principles of government, that it is surprising, not only that the State ever entered upon the system in 1853, but that it has continued it so long, and that, too, when there is plainly a natural line of demarcation between the work to be done by the two departments."

A few of the significant events of Superintendent Skinner's administration were the proposal of an



educational qualification for school commissioners (not perfected); the fixing of the statutory school age at from five to eighteen years; the observance, in 1895, of the centennial of the law establishing common schools; the act of 1895 requiring the display of the "Stars and Stripes" upon the school-houses of the State; the commemoration of the one hundredth birthday, May 14, 1895, of the great educator, Horace Mann; the judicial decision in the Watervliet case, affirming the power of the State to compel a municipality, or school district, to provide and maintain adequate educational facilities; the satisfactory execution of the compulsory education law, enacted in 1894; and the enlargement of the number of State scholarships in Cornell University from 128 to 150, to conform to the apportionment of Assembly districts under the Constitution of 1894. The following tables include the statistical and financial reports for the year ending July 31, 1903, for the ninth year of Superintendent Skinner's administration and the last of the Department of Public Instruction:

## STATISTICAL

	Cities	Towns	State
Number of districts .....	1,043	10,683	11,726
Number of teachers .....	22,637	17,188	39,825
Number of children in attendance .....	827,541	429,333	1,256,874
Number of volumes in libraries.....	719,691	998,260	1,717,951
Number of log school-houses.....		15	15
Number of frame school-houses .....	176	9,553	9,729
Number of brick school-houses.....	861	997	1,838
Number of stone school-houses.....	1,043	10,835	11,878

OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

FINANCIAL

RECEIPTS

	Cities	Towns	State
Amount on hand August 1, 1902.....	\$17,334,554.93	\$ 640,293.54	\$17,974,848.47
Amount apportioned to districts .....	1,943,326.60	2,044,730.31	3,998,056.91
Proceeds of gospel and school funds .....	6,016.60	32,819.19	38,835.79
Received from Regents..	131,760.91	154,918.66	286,679.57
Raised by tax .....	23,864,549.87	5,211,370.64	29,075,920.51
Teachers' board .....		7,098.89	7,098.89
Tuition .....	44,050.44	186,612.62	230,663.06
Other sources .....	7,651,723.26	610,678.71	8,262,401.97
Total .....	\$50,975,982.61	\$8,888,522.56	\$59,864,505.17

PAYMENTS

	Cities	Towns	State
Teachers' wages .....	\$18,509,203.19	\$5,461,963.50	\$23,971,166.69
Tuition to districts under contract .....		38,461.75	38,461.75
Transportation to districts under contract .		24,818.84	24,818.84
Libraries .....	69,997.00	88,298.08	158,295.08
School apparatus .....	1,133,528.01	61,210.46	1,194,738.47
School sites, repairs, etc.	8,926,964.17	984,959.26	9,911,923.43
In supervisors' hands..		880.26	880.26
Free text books .....	115,449.50		115,449.50
Other expenditures ....	4,479,444.62	1,522,917.21	6,002,361.83
Amount on hand July 31, 1903.....	17,741,396.12	705,013.20	18,446,409.32
Total .....	\$50,975,982.61	\$8,888,522.56	\$59,864,505.17

The value of school-houses and sites was, in the cities, \$82,174,215 ; in the towns, \$17,494,026, and in the State, \$99,668,241. The total cost of maintaining the normal schools was \$406,675.92, one new normal school, Jamaica, afterwards transferred from the State

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to New York City as a training school, being opened in 1897. The cost of maintaining teachers' institutes was \$41,416.44, of Indian schools \$14,198.78, of schools for defectives \$269,154.65, and of enforcing the compulsory education law \$15,473.89. The number of private schools was 867, with an attendance of 188,484. The tremendous growth during the existence of the Department of Public Instruction is seen in two items alone — in that the schools, in 1853, cost for maintenance but \$2,469,248.52, of which \$1,913,870.18 were expended for teachers' wages, as against \$41,418,095.85 and \$23,971,166.19, respectively, in 1903.

The activities of the Board of Regents during the period prior to unification were many and constantly increasing. It had from the beginning the disbursement of the literature fund to the academies of the State, some of which became famous as nurseries of learning, and later also to the high schools and academic departments of union free schools, the number of academies gradually but surely diminishing as they were either abolished or absorbed in the tax supported schools. It was apparent, especially after the act of 1853 became operative, that the old time academies would be driven to the wall by the free secondary schools. A few yet remain, owing to the pride and zeal of the communities in which they are located; and it is proper to add that in recent years the number of academies listed by the Regents has appreciated by the addition of denominational schools of academic rank, chiefly those of the Roman Catholic



communion. These, however, receive State aid to but a limited amount and that only for purposes of examination and inspection. For many years, the appropriation by the Regents to secondary schools was \$40,000 annually. In 1882, that amount was distributed to 257 academies, high schools and academic departments of union schools.

No greater work has been done by the Regents than the establishing and maintaining of their system of examinations. So early as 1828 the Board issued an ordinance defining the branches of study which should entitle an institution to a distributive share of the income of the literature fund, but nearly fifty years elapsed before the ordinance became fully effective. In 1864, it was ordered (1), that the students in every academy should be divided into two classes to be denominated preparatory and academic; (2), that preparatory pupils should be those who pursue studies preliminary to the higher branches of education, and academic students those who having passed the examinations in preliminary subjects should pursue higher branches of English education; (3), that to each student sustaining such examination a certificate should be given entitling him to admission to any academy subject to the visitation of the Regents. Academic examinations, the diploma for the passing of which admits students to all New York colleges and to nearly all the colleges in the United States, were established in 1877. The granting of public money to schools for results of examinations obtained, until 1900, when the Regents recurred to the original method of apportionment

for attendance. The work of the examinations department became enormous, a large force and an immense amount of detail being required in the Regents office which drafted syllabuses and passed upon the papers of applicants. In 1881-82, 4,197 preliminary certificates were allowed and 748 academic diplomas were awarded. The Regents diploma has continually increased in educational and public esteem, and it may be said fairly that no educational certificate in the country is today more extensively known or highly regarded.

Throughout, the Regents were empowered to incorporate a university, college, academy, library, museum, or other institution or association for the promotion of science, literature, art, history, or other departments of knowledge or of education in any way, associations of teachers, students, graduates of educational institutions whose approved purposes were, in whole or in part, of educational or cultural value deemed worthy of recognition and encouragement by the University — a wide and wholesome jurisdiction which they exercised liberally and wisely. Conformably to law, they supervised the entrance requirements to the study and the licensing of those engaging in the practice of medicine, dentistry, veterinary medicine, and, in later years, of pharmacy and optometry and the certification of public accountants and nurses; or, in other words, it was prescribed that all persons applying for license in the professions or vocations specified must be either college graduates or have had a preliminary education equivalent to that required



for graduation from a high school, the evidence of which should be duly shown, as also the fact that they had pursued satisfactorily the courses of study in their respective professional schools. The rule regarding preliminary education applied also to students of law, by the action of the Court of Appeals in 1883, although licensed, not by the Regents, but by the Supreme Court.

A survey of the work of the Regents as organized by departments shows its comprehensive scope in 1904, the year that unification was perfected:

1 — Administrative, including charters, finances, legislation, printing and publications, and all other work not assigned to any other department — interests provided for mainly by acts of 1784 and 1787.

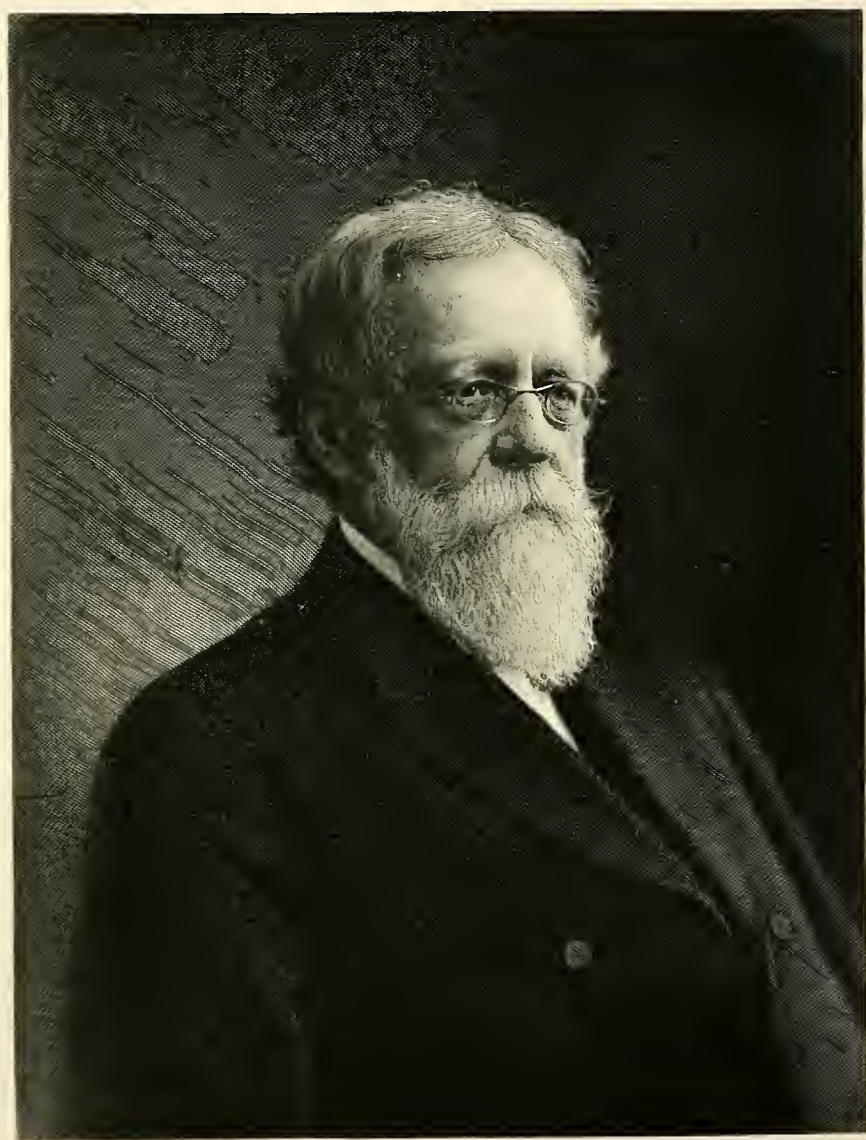
2 — College, including universities, professional, technical and other special schools, and all matters pertaining to degrees and licenses — that is, the supervision of higher education.

3 — High schools, including academies, courses of education in academic departments and other interests of secondary education. There were 144 academies and 636 high schools and academic departments.

4 — Home education, including public libraries, traveling libraries and pictures, the State Library School (started in 1889) and all University extension work (department instituted in 1891).

5 — The State Library (established in 1818), in 1904 the fifth largest in the United States, possessing 504,525 volumes, 310,340 pamphlets and over 250,000 manuscripts.





6 — The State Museum, of which the Regents were made trustees in 1845, and which, with its divisions of geology, mineralogy, paleontology, general zoology, entomology, botany and archeology, stands foremost among State institutions for scientific research.

It cost to run the University in 1903, \$630,682.79, of which \$292,267.36 were applied for salaries and expenses and \$337,815.43 for grants to schools — 560 academies, high schools and academic departments. There were 33 colleges and 86 professional and technical schools, altogether totalling 3,871 members of their faculties and 39,718 students. The net property of these institutions was \$86,375,792.30, their annual receipts \$11,076,593.70, and expenditures \$10,061,269.25. The burden of the work of the Regents devolved mainly upon the Secretary. The Regents, generally men of large personal affairs, residing in different sections of the State, serving without compensation and meeting regularly but four times a year, while giving competent and commendable thought to general policies and diligent in supervision, could not and were not expected to attend to office details. These were remanded to the Secretary. The Secretaries, from 1880 to 1904, successively were David Murray, an eminent educator and a faithful administrator; Melvil Dewey, an especially well-equipped and forceful executive, of rare initiative and constructive ability, jealous of the functions of the Board and earnest, even aggressive, in asserting them, to whom, despite certain infirmities of disposition, the State is under lasting

obligation for what he accomplished in the advancement of her educational interests and conspicuously in the building up and popularizing of the State Library; and James Russell Parsons, jr., a ripe scholar, enthusiastic in his labors, of winning personality and bold, yet discreet, in counsel. In July, 1884, the centennial of the University was appropriately observed in the Senate Chamber, Regent George William Curtis delivering a very able and eloquent memorial oration.

It were difficult to fix the date when the unification of the two systems of education in New York began to be exploited. It may be said to have been practically achieved, if not nominally declared, in 1814, when Gideon Hawley, the Superintendent of Common Schools, was elected Secretary of the Regents and continued to act in both capacities until his retirement as Superintendent in 1821, although remaining as Secretary until 1841. There were, of course, two distinct departments from 1821 on.

In 1836, Prosper M. Wetmore, a Regent of the University and chairman of the literature committee of the Assembly, made a report to that body proposing the establishment of a Department of Public Instruction, the Secretary whereof, with the powers of the Superintendent of Common Schools, should also be *ex officio* the Chancellor of the University. This report was not acted upon, but it outlined essentially the scheme of unification ultimately adopted. In 1837, Governor Marcy recommended the transfer of the supervision of academies



from the Regents to the Secretary of State; and, in 1870, Superintendent Weaver formulated a plan by which the Regents should be made a division of the Department of Public Instruction, with certain duties assigned to them under it. These are but some of many propositions brought forward, and prominent educators, throughout the years, became more and more inclined toward unification as a principle, although differing widely upon the methods through which it should have expression; and coincidently with outside agitation was the growing disposition of each department to absorb the other in itself, inspired principally by the desire of each to solely control secondary education. There was much discussion in the Constitutional convention of 1894 in regard to the educational prescriptions of the Constitution, including suggestions concerning unification; but, at the end, the convention contented itself with reaffirming the mandate of the Constitution that the capital of the respective school funds should be preserved inviolate and the income thereof variously applied as therein ordered; declaring that no State aid, beyond that for examination and inspection, should be extended to schools under denominational auspices; that the Legislature should provide for the maintenance and support of a system of free schools wherein all the children of the State may be educated, and ordaining that the University of the State of New York should be continued, its corporate powers to be exercised by not less than nine Regents, such powers, however, to be increased, modified or diminished at the

will of the Legislature. Thus, while the Regents were made a constitutional body, no bars against unification were put up and the movement for its consummation proceeded.

Public criticism busied itself with the Board of Regents rather than with the Department of Public Instruction, and that not so much with its functions as with its make-up, which was regarded to a considerable extent as cumbersome in its number — 23, with the *ex officio* members. The life tenure was not deemed desirable, and there was a demand that the Regents should be chosen from judicial districts and not indiscriminately from the State. Under the new Constitution, the Board could not be legislated out of existence, but it could be reorganized by doing away with the life tenure, reducing the number of its members and recognizing judicial districts in their election; and these changes to be consonant with the ending of the dual management of educational concerns. Meanwhile, controversy waxed fast and furious between the two educational departments, turning largely upon the point as to which body should have exclusive jurisdiction over secondary education — always more or less debatable — and involving in its progress the interchange of personal invective and assault, unseemly and greatly to be deplored. The Regents, prominent among them Chancellor Doane, Regent Sexton, singularly intelligent and scrupulous in the discharge of his office and giving generously of his time and means to the cause of higher education, and Regent Watson, gratefully to be



remembered for his sagacious and untiring work in the betterment of the medical profession through entrance examinations, were tenacious of the dignity of the Board and of the prerogatives that had inhered in it for more than a century. Superintendent Skinner was equally firm in drawing the line clearly between tax supported and non-tax supported schools, claiming that the agencies of secondary education should be entrusted wholly to the Department of Public Instruction ; and, therefore, that it should have the distribution of the literature fund to the high schools, then largely in numerical excess of the privately supported academies. The Regents, on the other hand, made tentative efforts to have the licensing of high school teachers lodged with them. The question was, in the last analysis, simply a matter of routine, but it never seems to have been so apprehended by either department. Differences between them were magnified and resentments cherished until the minor was subordinated to the major contention as to which should become supreme in the unification that was now seen to be imminent. Various attempts at accommodation were made, but all failed. Both departments were told by Governors Roosevelt and Odell and leading members of the Legislature that any plan upon which they could agree would be incorporated in law ; but, in the temper that obtained, harmony was impossible, and finally the Legislature itself assumed the responsibility and the unification of 1904 ensued.

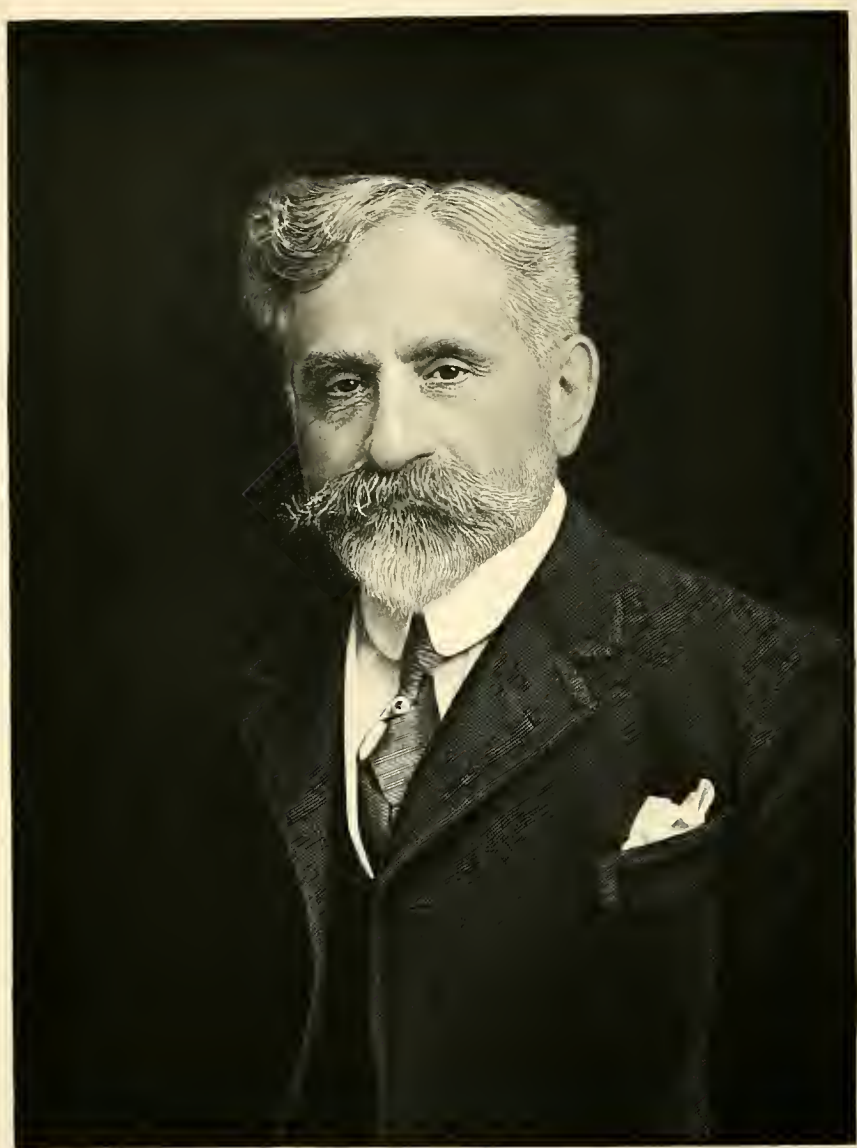
The Legislature of 1903 appointed a joint committee, of which Senator Merton E. Lewis was chairman. That committee transmitted an elaborate report to the Legislature, February 3, 1904, and a bill, substantially in accord with its recommendations, was introduced in both houses and became a law March 8. Its text is as follows:

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

*Sec. 1.* Government of the University. On and after the first day of April, 1904, the corporation designated by the Constitution as "The University of the State of New York" shall be governed and its corporate powers exercised by 11 Regents. The term of office of the Regents now in office, not selected as herein provided, shall cease and determine on said first day of April following the election of the 11 Regents hereinafter provided for. There shall be no *ex-officio* members of the Board of Regents.

*Sec. 2.* Election of Regents. Within 10 days after the passage of this act the Legislature shall proceed to the election of 11 Regents of the University of the State of New York, in the manner now prescribed for the election of a Regent. Such Regents shall be elected for the term of 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11 years respectively, from the first day of April, 1904. The Secretary of State shall issue to the persons so elected a certificate of election, in the same manner as certificates are now issued to elected members of the Board of Regents. Such Regents shall be selected from those who are now Regents of the University of the State of New York, and so far as may be, that one shall be chosen from each judicial district. The successors in office for a full term of the Regents thus elected shall in the same manner be elected by the Legislature in the second week of February in each year, to serve for a period of 11 years from the first day of April succeeding such election. If a vacancy shall occur in a judicial district (that is, in the territory comprising the same as now constituted) from which there remains one or more representatives on said Board, and there shall at the same time be a district not represented on the Board by a resident thereof, such vacancy shall





EDWARD L. HALL, F.R.S.

Edward L. Hall

be filled by the election of a Regent from such unrepresented district. A vacancy in the office of Regent, for other cause than expiration of term of service, shall be filled for the unexpired term by an election at the session of the Legislature immediately following such election, unless the Legislature is in session when such vacancy occurs, in which case the vacancy shall be filled by such Legislature.

*Sec. 3. Commissioner of Education.* Within 10 days after the passage of this act, the Legislature shall elect a Commissioner of Education in the same manner as members of the Board of Regents are now elected, who either may or may not be a resident of the State of New York. The Commissioner shall receive an annual salary of \$7,500, payable monthly, and shall also be paid \$1,500 in lieu and in full for his traveling and other expenses, also payable monthly. He shall enter upon the performance of his duties on the first day of April, 1904. The Commissioner of Education first elected shall serve for the term of six years, unless sooner removed for cause by the Board of Regents, and the Legislature shall fill any vacancy that may occur during such period of six years for the balance of the term, in the manner provided by Section 3 of this act, and all successors in office, after such term of six years, shall serve during the pleasure of the Regents, and all vacancies in the office of Commissioner of Education after such six years shall be filled by appointment by the Board of Regents.

*Sec. 4. Powers of Commissioner.* The office of Superintendent of Public Instruction and the office of Secretary of the Board of Regents shall be abolished from and after April 1, 1904, and the powers and duties of said offices shall be exercised and performed by the Commissioner of Education. The said Commissioner of Education shall also act as the executive officer of the Board of Regents. He shall have power to create such departments as in his judgment shall be necessary. He shall also have power to appoint deputies and heads of such departments, subject to the approval of the State Board of Regents. Such heads of departments shall appoint, subject to approval by the Commissioner of Education, such subordinates in their respective departments as in their judgment shall be necessary. The Commissioner of Education, for the first year of his incumbency, subject to approval by the State Board of Regents, shall fix and determine the salaries of all deputies, appointees



and employees within the appropriations made therefor and in accordance with existing laws. The Board of Regents of the University shall have power to establish such rules and regulations as are necessary to carry into effect the statutes of this State relating to education, and, subject to the provisions and limitations of this act, shall also possess all the powers now exercised by the present State Board of Regents. Nothing in this act shall be construed to affect the powers of the Board of Regents in relation to colleges, universities, professional and technical schools, libraries (other than public libraries), museums, university extension courses and similar agencies.

*Sec. 5. Of Appropriations.* All appropriations of public money made in support of the common school system, as heretofore administered by the State Superintendent of Public Instruction, and all such appropriations in aid of secondary education heretofore apportioned and certified by the Regents of the University, shall after certification by the Commissioner of Education herein created, be paid by the State Treasurer on the warrant of the Comptroller, and all employees and appointees in either the Department of the Regents or Department of Public Instruction shall be eligible for transfer and appointment to positions in the office of Commissioner of Education herein created.

*Sec. 6.* All acts and parts of acts so far as inconsistent with this act are hereby repealed.

*Sec. 7.* This act shall take effect immediately.

No change of moment has been made in the unification act, save that upon the erection of the ninth judicial district, a Regent was chosen therefrom and by the education law of 1910 — a complete codification — the number of Regents is fixed at three more than the number of judicial districts. There are now 12 Regents, with terms of 11 years for those elected before 1909 and 12 for those elected since. The salary of the Commissioner of Education was increased to \$10,000, inclusive of traveling and other expenses, in 1910.

At the joint session of the Legislature, March 9, 1910, the following named Regents were elected to the reorganized board for the several terms set forth: Albert VanderVeer, one year; St. Clair McKelway, two; William Nottingham, three; Daniel Beach, four; Eugene A. Philbin, five; Charles A. Gardiner, six; Edward Lauterbach, seven; T. Guilford Smith, eight; Whitelaw Reid, nine; Pliny T. Sexton, ten; and Charles S. Francis, eleven years, respectively. The following named Regents were retired under the operation of the law: Chauncey M. Depew, Charles E. Fitch, William H. Watson, Henry E. Turner, William Crosswell Doane, Lewis A. Stimson, Chester S. Lord and Robert C. Pruyn. Andrew S. Draper was at the same time elected Commissioner of Education. The choice of Dr. Draper as Commissioner was an exceptionally admirable one. He had, as Superintendent of Public Instruction, acquired a nationally enduring reputation for his skill and wisdom as an executive and for the reforms he inaugurated. He had supplemented his educational career in New York by a service of two years as superintendent of schools in Cleveland, Ohio, and ten as president of the University of Illinois, which institution, under his headship, notably augmented the number of its students, the strength of its curriculum and the public esteem which waits upon honorable and brilliant administration. He had also contributed many thoughtful essays to educational literature and delivered many impressive addresses upon educational themes. Thus he brought to his new office thorough



familiarity with all educational problems—higher, secondary and elementary — and, above all, supreme quality as an organizer, especially serviceable to the new departure which the State had ordained.

The Education Department was formally organized in the Capitol at Albany, April 26, 1904, ten Regents and the Commissioner of Education being present. Whitelaw Reid was elected Chancellor and St. Clair McKelway Vice Chancellor. The lines upon which the organization was effected are thus stated in the annual report of the Commissioner :

It was agreed and affirmed between the Board of Regents and the Commissioner of Education that the purpose of the State, which had finally crystallized in the unification act, was that contention should cease; that policies should be simplified; that the educational system should be wholly freed from any need or temptation to bend to any power or be swayed by any influence which was not moving for the educational advantage of all residents of the State; that the real point was not to save a little money or simply to bring about harmonious relations between the two old departments, but to develop a new system of educational administration which should bring the higher institutions and the common schools into more helpful relations, and which should also extend the encouragement and aid of the State to all seeking self-improvement outside of the schools.

It was agreed that the Board of Regents and the Commissioner of Education should construe the new legislation not technically and to the enlargement of the prerogatives of one authority as against another, but liberally and with a view to the differentiation of functions and responsibilities on lines which logical reasoning and common experience had shown must be observed, if agreeable relations were to be permanent, and if resulting official action was to be potential and respected. It was, therefore, determined that, without violating any distinct provision of the laws, the Board of Regents and the Commissioner of Education should freely go to the limits





Albert Vanderker



of their combined powers in the observance of a purpose to invest the Board of Regents with legislative functions concerning all the educational policies of the State, relating to the elementary schools as well as to the higher institutions, and vesting the Commissioner of Education with the fullest authority concerning the organization and administration of the Department and the execution of all the laws of the State relating to education, as well as of the rules, regulations and directions of the Board of Regents, made pursuant thereto.

It was understood that the judicial powers of the Commissioner of Education, under statutes of long standing and wide acceptance, empowering him to hear appeals from the action of local boards and officers, and determine school controversies speedily and conclusively, should remain wholly unimpaired.

It is to be added that the legislative powers of the Regents and the executive and judicial functions of the Commissioner are defined explicitly in the education law of 1910, a carefully digested and comprehensive act, the credit for the compiling and drafting of which is principally due to Thomas E. Finegan, third assistant commissioner, and Frank B. Gilbert, chief of the law division of the department.

The department, during the seven years of its existence, has worked harmoniously, been entirely free from political pressure or machination, and has been energetic and progressive in its activities, fully justifying the hopes that had been inspired by and the trust imposed in the unified system. It has accomplished much. A splendid material monument to its persuasion is the State Education Department building, now being constructed opposite the Capitol on Washington avenue, Albany, at an estimated cost of \$5,000,000. Based upon the inadequate



accommodation for the library and the administrative offices in the Capitol, and the miserable quarters of the State Museum outside, the Regents, early in 1906, represented to the State authorities the urgent need of a suitable and separate building for the department and held conferences with the Governor and leading legislators, resulting in the introduction in the Senate, by the Hon. John Raines, of a bill providing for the acquisition of a site and the erection of a building, which passed both Houses with but three dissenting votes and became a law, with the approval of Governor Higgins, May 31. The realty was secured by the trustees of public buildings either by individual purchase or condemnation proceedings. A board, consisting of the Governor, Lieutenant Governor, Speaker, Commissioner of Education, State Architect and Regent VanderVeer, gave preference to the architectural designs of Messrs. Palmer and Hornbostel, of New York City, their drawings being accepted in February, 1908. The contract for the building was let to the R. T. Ford Company, of Rochester, early in July following, and work began on the 29th of the same month. It will probably be completed some time in 1912. It will be a stately white marble structure of four stories, with a frontage of 670 feet, the facade consisting of a colonnade, resting on a stylobate of dark granite and behind that an arcade of generous proportions, the facade being crowned by a huge solid wall or attic. The end facades will be modifications of the front. The rear walls will be of a light-colored vitreous brick. A



magnificent flight of steps will lead to the main entrance at the center of the building. The interior will in every particular be fine in design and treatment, affording ample space for the housing of every division.

In administration, the rigid enforcement of the compulsory education law and the intelligent investigation and conscientious care which James D. Sullivan, chief of the attendance division, has given to it are to be commended. The examination systems, academic and professional, have been largely recast and adjusted by Dr. Charles F. Wheelock, chief of the examinations division, now second assistant commissioner. All of the assistant commissioners and the chiefs of divisions have been scholarly and vigilant officials. The Commissioner has bestowed much attention upon trades schools and agricultural courses in the grammar grades and through him they are gradually, but surely, being introduced. This is a radical reformation in the curriculum made necessary by changed economic conditions in the country — an unavoidable coercion of paternalism. The science and museum work has been enlarged and informed with newer enlightenment by Dr. John M. Clarke, the director and a scientist of world-wide reputation. Like acknowledgment is due to the successive directors of the State Library — Dr. Melvil Dewey, Edwin H. Anderson and James I. Wyer, jr. — for its acquisitions and signal development. The publications of the department have been numerous and various, covering an extensive field of investigation and information. Among them have been

the educational bulletins, elaborate volumes, elegantly illustrated — notably that of the “Birds of New York” — of the science division, and the historical and patriotic brochures on “Arbor Day,” “Lincoln,” “Champlain,” “Hudson,” and “The American Flag,” remarkable for the taste and beauty of their illustrations, edited by Harlan H. Horner, chief of the administrations division. The character of the sessions of the University convocation, long held by educators to be among the leading educational gatherings of the country, has been bettered, it is believed, by being restricted to special themes presented and discussed by authoritative experts, instead of being continued as a free parliament; and the relations of the University with the colleges have been more intimate and cordial than they were formerly, especially since Dr. Augustus S. Downing has been the first assistant commissioner.

The most drastic measure which, upon the prompting of the Department, has prevailed, is the rural supervision law, which was signed June 23, 1910, the purpose of which is expressed in its preamble. It provides for a closer and more intelligent supervision of the schools than had obtained previously — in some respects a reversion to the régime of the school superintendents, but with larger opportunity for usefulness. It will take effect *in toto* January 1, 1912. By it the office of school commissioner is abrogated and that of district superintendent of schools, with a tenure of five years, is created. The number of supervisory districts is thus increased from 114 to 207,





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Wm. C. Watson

## WILLIAM HENRY WATSON

Born Providence, R. I., November 8, 1829; graduated from Brown University 1852; attended medical lectures Homeopathic Medical College of Pennsylvania, University of Pennsylvania, and Pennsylvania hospital of Philadelphia; M.A., M.D., LL.D.; settled in Utica 1854; one of original members Oneida Homeopathic Medical Society, president 1860; president State Homeopathic Medical Society 1868; regent of University 1881-1904; member Oneida County Historical Society, Rhode Island Historical Society, Society of Colonial Wars of New York State, Society of Mayflower Descendants, Order of Descendants of Colonial Governors. charter member New York Society of Order of Founders and Patriots of America.



ranging from one each in the counties of Hamilton, Putnam, Rockland and Schenectady, to eight in St. Lawrence. The superintendents are to be chosen by boards of directors, two from each town included, being elected for terms of five years, in the same manner as town officers. The superintendent must possess, or be entitled to receive, a certificate authorizing him to teach in the public schools, and must also pass an examination qualifying him to supervise and teach agriculture. His salary is to be \$1,200 — an increase of \$500 from that of a school commissioner — with an allowance for expenses not to exceed \$300 annually, to be paid by the Commissioner of Education, but the supervisors of towns comprising a supervisory district may increase the compensation of a district superintendent. He cannot engage in any other business. His powers and duties are substantially the same as those that now inhere in the school commissioner, with larger usefulness, because of the qualifications required of him, and the smaller jurisdiction entailing more rigid inspection.

The following are the statistical summaries of the educational activities of the State for the year 1908-09:

## ATTENDANCE AT SCHOOLS

Common elementary schools.....	1,284,729
Special elementary schools .....	1,329
Common high schools.....	101,983
Special high schools .....	2,541
Academies .....	42,802
Normal schools .....	6,494
Teachers' training classes and schools.....	3,579
Universities, colleges and professional schools.....	36,287
Special higher institutions.....	2,885



# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Brought forward from preceding page . .	1,482,629
Private schools of all grades, exclusive of academies as enumerated on page 77, as shown by reports and best available information (estimated) . . . . .	225,000
Indian schools (estimated) . . . . .	870
Evening schools . . . . .	132,410
Total . . . . .	1,840,909

## NUMBER OF TEACHERS

Common elementary schools . . . . .	37,152
Special elementary schools . . . . .	63
Common high schools . . . . .	4,079
Special high schools . . . . .	103
Academies . . . . .	1,810
Normal schools . . . . .	284
Teachers' training classes and schools . . . . .	211
Universities, colleges and professional schools . . . . .	4,231
Special higher institutions . . . . .	101
Indian schools . . . . .	35
Evening schools . . . . .	2,719
Total . . . . .	50,788

## GRADUATES OF SECONDARY SCHOOLS AND NUMBER RECEIVING DEGREES FROM SCHOOLS, INCLUDING GRADUATE DEPART- MENTS OF UNIVERSITIES

High schools . . . . .	8,837
Academies . . . . .	1,935
Normal schools . . . . .	867
Training classes and schools . . . . .	1,680
Universities and colleges (arts course) . . . . .	1,790
Theology . . . . .	54
Law . . . . .	626
Education . . . . .	161
Medicine . . . . .	430
Dentistry . . . . .	130
Veterinary surgery . . . . .	30
Pharmacy . . . . .	206
Engineering and technology . . . . .	619
All other institutions (including graduate departments of universities) . . . . .	666
Total . . . . .	18,031

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

## NET VALUE OF PROPERTY

Common elementary schools.....	\$157,811,999
Special elementary schools .....	2,335,824
Common high schools .....	26,146,619
Special high schools .....	1,093,314
Academies .....	20,933,828
Normal schools .....	2,656,685
Universities, colleges and professional schools.....	112,990,676
Special higher institutions.....	5,538,646
Indian schools.....	26,400
Total .....	<u>\$329,533,991</u>

## TOTAL EXPENDITURES FOR YEAR 1908-09

Common elementary schools .....	\$47,146,722.93
Special elementary schools .....	433,756.63
Common high schools .....	6,816,160.48
Special high schools .....	244,154.24
Academies .....	3,580,110.87
Universities, colleges and professional schools.....	16,456,213.43
Special higher institutions .....	312,135.38
Normal schools.....	471,438.89
Training classes and schools.....	385,058.73
Indian schools .....	19,537.06
Evening schools .....	830,928.74
Total .....	<u>\$76,696,217.38</u>

## UNIVERSITIES, COLLEGES, PROFESSIONAL AND TECHNICAL SCHOOLS

Name	Location	Senior Officer of Faculty
Columbia*	New York	Nicholas Murray Butler, Ph.D., L.H.D., LL.D. (president)
Cornell	Ithaca	Jacob Gould Schurman, D.Sc., LL.D. (president)
New York	New York	John H. Cracken, Ph.D. (acting president)
St. Lawrence	Canton	Almon Gunnison, D.D., LL.D. (president)
Syracuse	Syracuse	James Roscoe Day, S.T.D., LL.D. (chancellor)
Union	Schenectady	Charles A. Richmond, D.D. (president)
Buffalo	Buffalo	Charles P. Norton, B.A. (chancellor)

\*Including Barnard and Teachers' College and College of Pharmacy of New York City.

## COLLEGES FOR MEN

Canisius	Buffalo	Rev. Augustus A. Miller (president)
Colgate	Hamilton	W. H. Crawshaw, M.A. (president pro tem.)
St. Francis Xavier	New York	Rev. Thomas J. McCloskey (president)
City of New York	New York	John H. Finley (president)
Columbia	New York	J. Howard VanAmringe (dean)
Fordham University St. John's	Fordham	Rev. Daniel J. Quinn (president)
Hamilton	Clinton	M. Woolsey Stryker, D.D., LL.D. (president)
Hobart	Geneva	Rev. Langdon Cheves Stewardson, LL.D. (president)
Manhattan	New York	Rev. Brother Jerome (president)
New York University College	New York	Henry M. MacCracken, D.D., LL.D. (president)
Niagara	Niagara Falls	Charles H. Colton, D.D. (president)
Polytechnic Institute	Brooklyn	Fred W. Atkinson, Ph.D. (president)
St. Bonaventure's	Allegany	Very Rev. Joseph F. Butler (president)

St. Francis ..... Brooklyn ..... Brother Stanislaus (president)  
 St. John's ..... Brooklyn ..... Very Rev. John W. Moore (president)  
 St. Joseph's ..... Yonkers ..... Rev. John P. Chadwick (president)  
 St. Stephen's ..... Annandale ..... Wm. Cunningham Rogers, D.D. (warden)  
 Union ..... Schenectady ..... Benjamin H. Ripton, LL.D. (dean)

COLLEGES FOR WOMEN

College of St. Angela ..... New Rochelle ..... Rev. M. C. O'Farrell (president)  
 Barnard (Columbia University) ..... New York ..... Wm. Tenney Brewster (acting dean)  
 Elmira ..... Elmira ..... A. Cameron MacKenzie, D.D., LL.D. (president)  
 Normal College ..... New York ..... George Sauler Davis, LL.D. (president)  
 Vassar ..... Poughkeepsie ..... James Monroe Taylor, D.D., LL.D. (president)  
 Wells ..... Aurora ..... George Morgan Ward, D.D., LL.D. (president)  
 William Smith ..... Geneva ..... Milton H. Turk, Ph.D. (dean)  
 D'Youville College and Academy  
 of Holy Angels ..... Buffalo ..... Charles H. Horton (president)

COLLEGES FOR MEN AND WOMEN

Adelphi ..... Brooklyn ..... Charles H. Levermore, Ph.D. (president)  
 Alfred University (liberal arts) ..... Alfred ..... Boothe Colwell Davis, D.D. (president)  
 Cornell (arts and science) ..... Ithaca ..... Charles Henry Hull, Ph.D. (president)  
 Keuka ..... Keuka Park ..... Walter B. Tower (president)  
 St. Lawrence (letters and science) ..... Canton ..... Henry Priest, Ph.D. (dean)  
 Syracuse (liberal arts) ..... Syracuse ..... Frank Smalley, Ph.D. (dean)  
 University of Rochester ..... Rochester ..... Rush Rhees, D.D., LL.D. (president)

Name	Location	THEOLOGY	
			Senior Officer of Faculty
Alfred Theological Seminary.....	Alfred .....	Arthur Elwin Main, D.D. (dean)	
Auburn Theological Seminary .....	Auburn.....	George B. Stewart, D.D., LL.D. (president)	
Colgate University (Hamilton Seminary).....	Hamilton.....	Wm. H. Allison, Ph.D., D.D. (dean)	
General Theological Seminary of P. E. Church.....	New York.....	Very Rev. Wilford L. Robbins, D.D., LL.D. (dean)	
German Martin Luther Seminary..	Buffalo.....	Rev. John M. Grabau (president)	
Hartwick Seminary (theological department).....	Hartwick Seminary..	Alfred Hiller, D.D. (chairman)	
Jewish Theological Seminary of America.....	New York.....	Solomon Schlechter, LL.D. (president)	
Niagara University, Seminary of Our Lady of Angels .....	Niagara University.	Very Rev. Edward J. Walsh (president)	
Rochester Theological Seminary....	Rochester .....	Augustus Hopkins Strong, D.D., LL.D. (president)	
St. Bernard's Seminary .....	Rochester .....	Rev. James J. Hartley (protector)	
St. John's (theological department)	Brooklyn.....	William C. Hoctor (dean)	
St. Bonaventure's (theological dept.)	Allegany .....	Very Rev. Joseph F. Butler (president)	
St. Joseph's Seminary and College..	Yonkers.....	Right Rev. John M. Farley, D.D. (president)	
St. Lawrence University.			
Theological Seminary.....	Canton.....	Henry Prentiss Forbes, D.D. (president)	
Union Theological Seminary.....	New York.....	Francis Brown, D.D., LL.D. (president)	
EDUCATION			
Columbia University, Teachers' College.....	New York.....	James Earl Russell, LL.D. (dean)	

Cornell University, School of Education .....	Ithaca .....	George P. Bristol, M.A. (dean)
New York State Normal College .....	Albany .....	William J. Milne, Ph.D., LL.D. (president)
New York University, School of Pedagogy .....	New York .....	Thomas M. Balliet, Ph.D. (dean)
Syracuse University, Teachers' College .....	Syracuse .....	Jacob Richard Street, Ph.D. (dean)

STATE NORMAL SCHOOLS

Location	Principal	Location	Principal
Brookport .....	Alfred C. Thompson, B.A.	New Paltz .....	John C. Bliss, A.B., Pd.D.
Buffalo .....	Daniel Upton, B. S., M.E.	Oneonta .....	Percy I. Bugbee, M.A., D.Sc.
Cortland .....	Francis J. Cheney, Ph.D.	Oswego .....	Isaac B. Poucher, M.A., Pd.D.
Fredonia .....	Myron T. Dana, Ph.B., Pd.D.	Plattsburg .....	George K. Hawkins, M.A., D.Sc.
Geneseo .....	James V. Sturges, M.A.	Potsdam .....	Jeremiah M. Thompson, A.M., Pd.D.

Name	Location	Law	Senior Officer of Faculty
Columbia University, Law College .....	New York .....	Harlan F. Stone, LL.B. (dean)	
Cornell University, Law College .....	Ithaca .....	Frank Irvine, LL.B. (dean)	
Fordham University, Law School .....	Fordham .....	Paul Fuller, LL.D. (dean)	
New York Law School .....	New York .....	George Chase, LL.D. (dean)	
New York University, Law School .....	New York .....	Clarence D. Ashley, LL.D., J.D. (dean)	
St. Lawrence University, Brooklyn Law School .....	New York .....	Wm. Payson Richardson, LL.D. (dean)	
Syracuse University, Law School .....	Syracuse .....	James B. Brooks, D.C.L. (dean)	



Name	Location	LAW—Continued	Senior Officer of Faculty
Union University, Albany			
Law School	Albany	J. Newton Fiero, LL.D.	(dean)
University of Buffalo, Law School	Buffalo	Carlos C. Alden	(dean)
MEDICINE			
Columbia University, College of			
Physicians and Surgeons	New York	Samuel W. Lambert, M.D.	(dean)
Cornell University, Medical College	New York	{ William M. Polk, M.D., LL.D.	{ (New York)
		{ A. T. Kerr, M.D. (Ithaca)	{ (deans)
Eclectic Medical College	New York	S. A. Hardy, M.D.	(dean)
Fordham University (Medicine)	Fordham	James J. Walsh, M.D., LL.D.	(dean)
Long Island College Hospital	Brooklyn	John D. Rushmore, M.D.	(dean)
New York Homeopathic			
Medical and Flower Hospital	New York	Royal S. Copeland, M.D.	(dean)
New York Medical College			
and Hospital for Women	New York	Helen Cooley Palmer, M.D.	(president)
New York Polytechnic Medical			
School and Hospital	New York	John A. Wyeth, M.D.	(president)
New York Postgraduate			
Medical School and Hospital	New York	George N. Miller, M.D.	(president)
Syracuse University, Medical College	Syracuse	John L. Heffron, M. D.	(president)
Union University, Medical College	Albany	Samuel B. Ward, M.D.	(dean)
University and Bellevue Hospital			
Medical College	New York	Egbert LeFevre, M.D.	(dean)
University of Buffalo			
(medical department)	Buffalo	Matthew D. Mann, M.D.	(dean)

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

The following lists include the names of Regents of the University serving during the period 1883-1910, not including the *ex-officio* members, ex-superintendents of public instruction and the present organization of the Education Department :

## REGENTS 1883-1910

*(D) George W. Clinton, LL.D.	1856-1885
*(R) Lorenzo Burrows	1858-1885
(R) J. Carson Brevoort, LL.D.	1861-1885
*(R) Elias W. Leavenworth, LL.D.	1861-1887
*(R) George Wm. Curtis, LL.D.	1861-1892
*(D) Francis Kernan, LL.D.	1871-1892
*(R) John L. Lewis	1871-1889
*(R) Henry R. Pierson, LL.D.	1872-1890
*(R) Martin I. Townsend, LL.D.	1873-1903
*(R) Anson J. Upson, LL.D., LL.D.	1874-1902
*(R) William L. Bostwick, B.A.	1876-1896
(R) Chauncey M. Depew, LL.D.	1877-1904
(R) Charles E. Fitch, LL.D.	1877-1904
*(R) Orris H. Warren, D.D.	1877-1901
(R) Whitelaw Reid, LL.D.	1878-
(R) Leslie W. Russell, LL.D.	1878-1891
(R) William H. Watson, M.D., LL.D.	1881-1904
(R) Henry E. Turner, LL.D.	1881-1904
(R) St. Clair McKelway, LL.D., LL.D., D.C.L.	1883-
*(R) Hamilton Harris, LL.D.	1885-1900
(R) Daniel Beach, LL.D.	1885-
(R) Willard A. Cobb, B.A.	1886-1895
*(R) Carroll E. Smith, LL.D.	1888-1903
(R) Pliny T. Sexton, LL.D.	1890-
(R) T. Guilford Smith, C.E., LL.D.	1890-
(D) Rt. Rev. Wm. Crosswell Doane, D.D., LL.D.	1892-1904
*(D) Rt. Rev. Francis McNierney	1893-1894
(D) Lewis A. Stimson, M.D., LL.D.	1893-1904
*(R) Rev. Sylvester Malone	1894-1899

\* Died in Office.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

## REGENTS 1883-1910—Continued

(R) Albert VanderVeer, M.D., LL.D. ....	1894-1905-1906-
(R) Chester S. Lord, LL.D. ....	1897-1904-1910-
(R) Rt. Rev. Thomas A. Hendrick, LL.D. ....	1900-1904
(R) Robert C. Pruyn, B.A. ....	1901-1904
(R) William Nottingham, LL.D. ....	1902-
*(R) Charles A. Gardiner, LL.D., LL.D., D.C.L. ....	1903-1910
(R) Charles S. Francis, B.S. ....	1903-1906
(R) Edward Lauterbach, LL.D. ....	1904-1911
(D) Eugene A. Philbin, LL.D. ....	1904-
(R) Lucian A. Shedden, LL.B. ....	1905-
(D) Francis M. Carpenter. ....	1909-

\* Died in Office.

## CHANCELLORS

Henry R. Pierson, LL.D. ....	1881-1890
George Wm. Curtis, LL.D. ....	1890-1892
Anson J. Upson, D.D., LL.D., LL.D. ....	1892-1902
Wm. Crosswell Doane, D.D., LL.D. ....	1902-1904
Whitelaw Reid, LL.D. ....	1904-

## VICE-CHANCELLORS

George W. Clinton, LL.D. ....	1881-1886
George Wm. Curtis, LL.D. ....	1886-1890
Anson J. Upson, D.D., LL.D., LL.D. ....	1890-1902
Wm. Crosswell Doane, D.D., LL.D. ....	1892-1902
Whitelaw Reid, LL.D. ....	1902-1904
St. Clair McKelway, LL.D., LL.D., D.C.L. ....	1904-

## SECRETARIES

David Murray, LL.D. ....	1880-1888
Melvil Dewey, LL.D. ....	1888-1900
James Russell Parsons, jr. ....	1900-1904

## SUPERINTENDENTS OF PUBLIC INSTRUCTION

(D) William B. Ruggles, B.A. ....	1883-1886
(D) James E. Morrison ....	Jan.-April 1886
(R) Andrew S. Draper, LL.D. ....	1886-1892
(D) James F. Crooker. ....	1892-1895
(R) Charles R. Skinner, LL.D. ....	1895-1904

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

## EDUCATION DEPARTMENT — 1910

Regents of the University

With years when terms expire

1913	Whitelaw Reid, M.A., LL.D., D.C.L., Chancellor.....	New York
1917	St. Clair McKelway, M.A., LL.D., Vice Chancellor.....	Brooklyn
1919	Daniel Beach, Ph.D., LL.D.....	Watkins
1914	Pliny T. Sexton, LL.B., LL.D.....	Palmyra
1912	T. Guilford Smith, M.A., C.E., LL.D.....	Buffalo
1918	William Nottingham, M.A., Ph.D., LL.D.....	Syracuse
1922	Chester S. Lord, M.A., LL.D. ....	New York
1915	Albert VanderVeer, M.D., M.A., Ph.D., LL.D.....	Albany
1911	Edward Lauterbach, M.A., LL.D.....	New York
1920	Eugene A. Philbin, LL.B., LL.D. ....	New York
1916	Lucian L. Shedden, LL.B., LL.D.....	Plattsburg
1921	Francis M. Carpenter .....	Mount Kisco

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Andrew S. Draper, LL.B., LL.D.

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Thomas E. Finegan, M.A., Pd.D., Third Assistant

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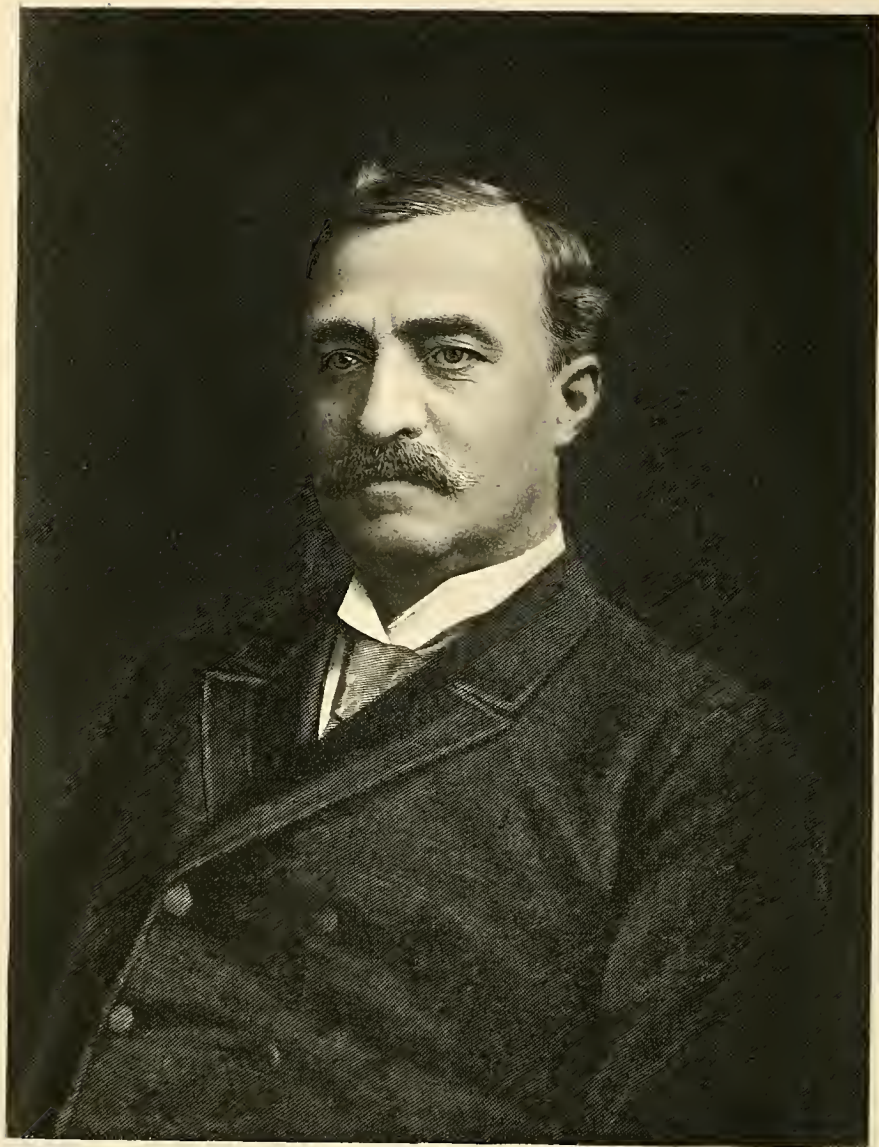
OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

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Charles A. Shaver, M.A. ....	Fredonia
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O. Henry O. P. Hill

## CHAPTER IX

# ORIGIN AND CONSTRUCTION OF THE BARGE CANALS

BY HON. HENRY W. HILL, LL.D.

*Member Constitutional Convention, 1894; Assemblyman, 1896-1900;  
Senator, 1901-10. Author "Waterways" in Encyclopedia Americana, etc., and  
Author of "Waterways and Canal Construction in New York"*

### SUMMARY OF CANAL DEVELOPMENT

THE canal system of New York, the main line of the Erie being the longest and most important artificial waterway of the Continent, has long been the pride of the State, as it has also been one of the chief agencies in the marvelous development of her resources and of the commerce of the Nation. This article will mainly be devoted to the barge canals, but a brief recital of the chronology and administration of the system may serve as an introduction to a description of the great enterprise in which the State is now engaged.

For the following summary, by periods, obligation is due to the very excellent and exhaustive "History of the Canal System of the State of New York," by Noble E. Whitford, C. E., published in 1906 under the authority of the Hon. Henry A. Van Alstyne, state engineer and surveyor :

1609-1768 — The period of using the natural streams with but few artificial improvements.

1768-90 — That of awakening to the needs of improved navigation, during which the first official action appeared.

1791-97 — That of constructing the Inland Navigation Companies' Works.

1798-1807 — That of quiet before the people were ready to undertake the task which the conditions demanded.

1808-16 — That of active canal agitation.

1817-25 — That of constructing the Erie and Champlain canals and of beginning agitation for lateral canals.

1825, November 4 — The marrying of Lake Erie to the Atlantic, Governor DeWitt Clinton pouring a keg of the waters of the one into that of the other in New York harbor.

1826-34 — Remarkable success attending the canal that demanded an enlarged channel and induced the building of the Oswego, Cayuga and Seneca, Chemung, Crooked Lake and Chenango canals by the State and the Oneida Lake and Delaware and Hudson canals by private enterprise.

1835-41 — That of beginning the first enlargement of the Erie, of constructing the Seneca River touring-path, of beginning the construction of the Black River and Genesee Valley canals and the Oneida River improvement and of purchasing the Oneida Lake canal. Work interrupted by the panic of 1837, increased cost of

improvements and inadequate financial plans, involving the State in debt.

1842-46 — Another period of comparative quiet, so far as the word of construction was concerned.

1847-53 — Work resumed. The Baldwinsville canal, built and equipped for forty years by private enterprise, was appropriated by the State, and railroad tolls, which had been applied to the canal fund, were abolished.

1854-62 — Under provisions for borrowing needed money, the work of enlarging the Erie proceeded, with some interruption for lack of funds, to a so-called completion in 1862, with length of  $350\frac{1}{2}$  miles, 70 feet surface,  $52\frac{1}{2}$  or 56 feet bottom, seven feet water, 72 locks (110 by 18 feet), 57 double locks and 15 single. At the same time the Oswego, Cayuga and Seneca canals were enlarged and a deepening of the Champlain to five feet was begun.

1863-68 — That of few improvements. Experiments in steam propulsion were claiming attention, the Chenango canal extension was begun and an attempt to enlarge the locks of the Oneida canal resulted in beginning an enlarged canal on a new location.

1869-75 — Greater activity. Investigations of canal management, with far-reaching reforms, the substitution of a Superintendent of Public Works for the Canal Commissioners formerly in charge, the abandonment of the Chemung, Crooked Lake, Chenango, Genesee Valley and Oneida Lake canals, and active attempts to perfect steam towage.

1876-83 — A period of retrenchment, but also of continued agitation for increased facilities for transportation. In 1883, the tolls, after having been repeatedly reduced, were finally abolished. A free canal maintained by the State.

1884-91 — Lock - lengthening on the Erie and Oswego canals. Beginning of the movement to modernize the canal system.

1892-95 — That of constitutional and legislative action and of popular approval, preparatory to the second enlargement of the Erie and Oswego canals and another attempt at increasing the size of the Champlain. Electricity made its appearance as a motor for towage.

1896-98 — The period of the second enlargement of the chief canals, interrupted by the exhaustion of funds and followed by an investigation of alleged frauds and extravagances. Committee appointed to formulate a suitable canal policy.

1899 — Agitation for and the adoption and prosecution of the barge canal system.

The administration of the canals is in the hands of the Commissioners of the Canal Fund, the Canal Board, the Advisory Board of Consulting Engineers, the State Engineer and Surveyor and the Superintendent of Public Works, the last-named official superseding Canal Commissioners in 1878.

#### ORIGIN OF BARGE CANALS

The barge canal system was originally proposed by the Greene Commission in its report to Governor



Theodore Roosevelt on January 15, 1900, wherein it recommended the construction of a canal from Lake Erie to the Hudson river "of sufficient size to carry boats 150 feet in length, 25 feet in width and 10 feet draft, with a cargo capacity of approximately 1,000 tons each; the prism of such canal to be not less than 12 feet deep throughout, with not less than 11 feet of water in the locks and over all structures, and the locks to be about 310 feet long and 28 feet wide, so as to pass two boats at one lockage. Such a canal will be capable of carrying a tonnage equal to the capacity of the St. Lawrence canals. The estimated cost of this project is \$58,894,668." That Commission also recommended that the enlargement of the Oswego and Champlain canals, authorized in 1895, be completed at the cost of \$2,642,120, and that the Black river and Cayuga and Seneca canals be maintained as navigable feeders, but should not be enlarged at that time.

That Commission reported against the abandonment of the canals and against the construction of a ship canal through the State at its expense, on the ground that that was a project demanding the consideration of the Federal government, rather than that of the State. In his special message submitting that report to the Legislature on January 25, 1900, Governor Roosevelt called attention to "momentous changes in the conditions that affect the business prosperity of communities as in those affecting the business prosperity of individuals." The message continued :



"The private corporation which refuses to adapt itself to the new conditions goes down, and it is not possible that a community which follows a similar course should continue to stand on its former plane. Neither New York State nor New York City can afford to rest supine while their eager business rivals strain every nerve to steal away the commerce which has been so large a part of their life blood. New York is the only State through which, because of its topography, it is possible to transport freight by water from the great basin of the Mississippi to the Atlantic. The Dominion of Canada on the north has similar advantages, and how well the Canadians have availed themselves of these the final opening of their great canal system last fall conclusively proves. If we do not improve our canals we shall have nothing wherewith to meet the advantages conferred upon Canadian commerce by her canals on the north, while we deprive ourselves of a great aid in the struggle with our business rivals in our own country, leaving ourselves at the mercy of the combinations made by the railroads for the benefit of other localities. The considerations affecting our commercial \* \* \* welfare are too vital for us to neglect them. If three-quarters of a century ago New York State could build the original Erie canal; if a quarter of a century ago the present city of Greater New York could start to build the Brooklyn Bridge, in each case to the enormous advantage of the community which incurred the burden of the expenditure, there is no reason why the Empire State should now shrink from such an undertaking (as the construction of the barge canal system), when it promises similar results. \* \* \* I again earnestly ask your attention to this subject, than which no other can be more vital to the welfare of this State."

The personnel of the Greene Commission was such as to give great weight to its report, in determining, as Governor Roosevelt requested it to do, "the broad question of the proper policy which the State should pursue in canal matters." It consisted of General Francis V. Greene, Major General U. S. Volunteers; Major Thomas W. Symonds, of the United States

Engineers; Hon. John N. Scateherd, of Buffalo, ex-president of the Merchants' Exchange, the Lumber Exchange and State Board of Trade; Hon. George E. Green, ex-mayor of Binghamton; Hon. Frank S. Witherbee, long identified with canal and transportation matters in this State; Hon. Edward A. Bond, State Engineer and Surveyor, and the Hon. John N. Partridge, Superintendent of Public Works. Major Symonds was somewhat familiar with the whole subject, for he had made an estimate in a report submitted by him on December 1, 1890, of the cost of enlarging the locks in the Erie canal to a width of 25 feet, with a length of 250 feet and to a depth of nine feet; and also, under the direction of the Secretary of War, made an estimate of the cost of the construction of a ship canal of 21 feet draft, from the Great Lakes to the navigable waters of the Hudson river. The Commissioners served without pay; gave much time to public hearings and to the investigation of the matters involved; made a report that fills 231 printed pages, with seven maps, 36 charts and 69 tables of statistical information; and for the first time presented to the Governor and Legislature the broad policy of canal enlargement to the 1,000-ton barge capacity. The public demand for the report was such that I introduced a resolution in the Assembly, and had 2,500 additional copies printed for general distribution, and the State Engineer printed several thousand copies, so that the widest publicity possible was given to the recommendations of the Commission. Among other things, the Commission reached the conclusion that

“water transportation is inherently cheaper than rail transportation; by the enlargement of the canal \* \* and with the introduction of improved methods of management” the Commissioners held “that the canal rate can be reduced to two-thirds of one mill per ton mile, or very nearly as low as the lake rates, which were said to be from one-third to one-fourth of those by rail.”

In that report may be found the conclusions reached by the Hon. Frank S. Witherbee, after a tour and investigation of European canals, equipped with every modern appliance for the economical handling of tonnage, and an estimate of the cost of various types of canals theretofore proposed, as well as those recommended by the Commission. The Commissioners also recommended that before any work were undertaken detailed surveys be made under the supervision of the State Engineer and Surveyor, in order to determine more accurately the cost of such canals, and the best routes from the Great Lakes and Lake Champlain to the Hudson river.

Accordingly, as chairman of the Canal Committee of the Assembly, on March 6, 1900, I introduced a bill in the Assembly entitled “An act directing the State Engineer and Surveyor to cause surveys, plans and estimates to be made for improving the Erie canal, the Champlain canal and the Oswego canal, and making appropriation therefor,” which carried an appropriation of \$200,000. The companion bill was introduced, on March 8th, in the Senate, by Senator Henry Marshall, of Brooklyn. The passage of the measure was

strenuously opposed, both in the Senate and Assembly. It was necessary to arouse public sentiment in support thereof, and a dinner was given to Governor Roosevelt at the Waldorf-Astoria Hotel, in New York City, on March 10, 1900, by about twenty-five principal commercial organizations of the City and State, which was attended by many State officials and several hundred distinguished citizens from the metropolis and various cities of the State. It was one of the most notable assemblages held at any time during the period of canal agitation, and resulted in arousing public interest in the passage of the survey bill, which became Chapter 411 of the Laws of 1900.

Naturally, there were some differences of opinion as to these matters and as to whether the route between the Great Lakes and the Hudson River should be *via* the Mohawk, Oneida Lake and Seneca River, or *via* the Mohawk, Oneida Lake and Lake Ontario. The first of these routes was finally chosen, but surveys, plans and estimates were made for both routes, as well as for a canal from the Hudson River to Lake Champlain, by State Engineer Edward A. Bond, pursuant to Chapter 411 of the Laws of 1900, in which he was assisted by a corps of distinguished engineers. His report to the Legislature, on February 12, 1901, fills 1,000 pages and fully covers the whole subject of the three principal barge canals now in process of construction.

From October 10 to 12, 1899, while the Greene Commission had under consideration the broad question

of the proper policy which the State should pursue in canal matters, an important State Commerce Convention met in the city of Utica, and, among other things, "Resolved, That the Erie, Oswego and Champlain canals ought to be materially improved to maintain the commercial supremacy of the State, thereby promoting the prosperity of its people," and "Resolved, That the outlay in making such improvement would be a wise investment of money for the people of the State \* \* the improvement must be progressive and calculated to attain a definite object and so made that each step will be complete in itself and give immediate benefits to commerce."

The following year the second State Commerce Convention met in Syracuse, on June 6 and 7, and adopted the following resolution: "Resolved, That the future prosperity of the entire State requires the improvement and enlargement of its canals in a manner commensurate with the demands of commerce, and to a capacity sufficient to compete with all rival routes"; and in the following year, on September 16th, a third Commerce Convention met in the city of Buffalo, and "Resolved, That it is the sense of this convention that the commercial interests of the State will be best fostered, promoted and protected by the construction of the one thousand-ton barge canal." These several conventions comprised representation from the various organizations of the State, and were addressed by persons skilled in transportation matters and commercial questions, and tended to crystalize public sentiment in favor of the 1,000-ton



barge project. They exerted a marked influence upon the people in various political divisions of the State. The barge canal project was so much larger than anything advocated or contemplated by the people that its proposal by the Greene Commission was something of a surprise, and at first it was feared by canal advocates that it would not meet with approval, and by the opponents of canal improvement it was considered an insuperable barrier to all further canal expenditures. The eminent Commissioners, who foresaw the commercial and industrial needs of the State for another century, were courageous enough to recommend what they believed was best suited to their promotion.

During the Legislative session of 1901, various propositions were presented with a view of carrying into effect some one of the routes considered in the report of the State Engineer and Surveyor, which had theretofore been presented to the Legislature, and a bill was reported from the Canal Committee of the Assembly carrying an appropriation of \$26,000,000 for the improvement of the canals to admit of the passage of boats carrying 450 tons. This was known as the Seymour plan, and did not contemplate a change of route, but rather an enlargement of locks and prisms of the existing canals of the State. The New York City representatives, however, did not favor this measure, and it was finally re-committed, and nothing was done at that session. On January 22, 1902, Hon. George A. Davis, chairman of the Senate Canal Committee, introduced a bill, making



an appropriation of \$28,800,000 for the improvement of the Erie canal, which was to be submitted to the voters at the following election. It was subsequently amended to \$31,800,000, to include the improvement of the Champlain canal, and passed the Senate on April 18, 1902. In the Assembly a substitute bill was reported by the Canal Committee, of which the Hon. Thomas D. Lewis, of Oswego, was chairman, which carried an appropriation of \$37,200,000 to provide for the improvement of the Erie, Champlain and Oswego canals, and a submission to the voters at the ensuing election. That bill, however, did not pass either the Assembly or Senate, and nothing further was done at that session in the way of canal legislation, owing to the differences existing as to the improvement of the three principal canals, and also owing to the opposition of New York to any improvement less capacious than that to accommodate 1,000-ton barges. During the session of 1902, I introduced a proposed amendment adding a new section to Article 7 of the Constitution to apply the surplus moneys in the treasury to the liquidation of the bonded indebtedness of the State, by providing that such surplus moneys be set apart in a sinking fund to meet the interest and principal of the bonded indebtedness of the State, in case the same were in any year sufficient, and in such event to suspend for that year the provisions of Section 4 of Article 7, requiring the imposition of a direct tax to raise money to meet the principal and accruing interest on the bonded indebtedness of the State, which passed the Senate and Assembly, as well as

the Session of 1903, and was submitted to the people at the general election in the year 1905 and approved. In 1903, I introduced another proposed amendment to Section 4 of Article 7 of the Constitution extending the bonding period from eighteen to fifty years, which passed the Senate and Assembly in 1903 and 1905, and was approved by popular vote in 1905.

The opposition to canal improvement for a generation had been such as to prevent the passage of any measure through the Legislature that was not supported by the entire vote of all the canal counties. It was with some satisfaction, therefore, that the representatives of rural counties witnessed the failure of all canal improvement measures in the sessions of 1901 and 1902. During that period the opposition was uniting and becoming stronger, and confronted, as its representatives were, with the report of the various surveys by the State Engineer and Surveyor, they realized that something must be done to stem the rising tide of public sentiment for canal improvement, or it would be irresistible. Accordingly, various alternative propositions were presented, and the one most frequently resorted to was a proposition to negotiate with the United States Government, with a view of turning over the canal system of the State to the Federal Government, to be followed by an appeal to Congress for an appropriation for its improvement. That was not at all novel, for similar appeals had been made at various times during the last century, but they were wholly unavailing. Another proposition was to abandon

the canals as waterways, and construct in their beds railways to be operated by the State or leased to private individuals. Some such course was adopted in Pennsylvania, where may be seen abandoned canals occupied by railway corporations, to the entire exclusion of all competition in freight rates. Other propositions less captious were suggested, but the principal one was the construction of a ship canal from Lake Ontario to the deep waters of the Hudson river, as recommended by the Deep Waterways Commission of the United States Government, transmitted to Congress on January 18, 1897. That project had the approval of eminent engineers, and would have been consummated entirely at governmental expense. As a practical waterway, however, few, if any, vessel owners familiar with the operation of ship canals would advocate the construction of a ship canal approximately 200 miles long, from Lake Ontario to the deep waters of the Hudson, to be navigated by vessels drawing twenty feet of water, with the expectation of realizing anything proportionate to their receipts from lake navigation for such craft. Vessel owners avoid such waterways, whenever possible, for delays are costly, both on account of the capital invested and operating expenses, and these soon wipe out all the profits on a cargo.

Sentiment in the rural counties, however, was easily crystalized on any proposition, however impracticable it might be, provided the barge canal project might thereby be defeated or delayed. It was a crucial period

in the history of this State. For a quarter of a century canal commerce had been on the decline and railway commerce on the increase. Railway freight rates were approximately three-fold what the canal rate was likely to be if the canals were adequately improved. Commerce at the port of New York was relatively on the decline and that of the other Atlantic ports on the increase. Trunk railway lines were discriminating against the port of New York, by the maintenance of a differential rate, which had been sustained by the Supreme Court of the United States. Canadian canals were being improved, and the tide of commerce was turning northward to the port of Montreal. Railway interests were centralized against any and all forms of further canal improvement. Political leaders in the rural districts of both parties were opposed to the expenditure of any considerable sums of money for canal improvement. Every influence the railway interests could exert through pamphlets, the press and other agencies under their control was directed against any and all measures designed to carry out the recommendations of the Greene Commission, or any other form of canal improvement. The canal advocates themselves did not agree on what was best, but remained in that condition until the convening of the Legislature in January, 1903, when there was presented a bill, drafted by Major Thomas W. Symonds; Hon. Frank S. Gardner, secretary of the New York Board of Trade and Transportation; Hon. George Clinton, grandson of DeWitt Clinton and one of the

best known canal authorities in the State; Hon. Abel E. Blackmar, counsel for the New York Produce Exchange and others, which was known as the Referendum Measure of 1903. It was introduced in the Assembly by the Hon. Charles F. Bostwick, of New York, and in the Senate by the Hon. George A. Davis, chairman of the Senate Canal Committee. It provided for the deepening of the Erie and Oswego canals to twelve feet and of the Champlain canal to seven feet, and also provided for an issue of bonds to the extent of \$82,000,000. It was referred to proper committees. Several hearings were had on the bill, which were attended by such prominent canal advocates as Hon. Frank Brainard, Ludwig Nissen, W. F. King, George S. Morison, Hon. Gustav H. Schwab, Prof. William H. Burr, Hon. John D. Kernan, Henry B. Hebert, Hon. Abel E. Blackmar, Hon. Frank S. Witherbee, Hon. Lewis Nixon, Hon. George Clinton, Hon. Frank S. Gardner, Hon. Frederick O. Clarke, George H. Raymond, William F. McConnell, William R. Corwine and others, and opposed by the late John I. Platt, representatives of the State Grange, of railroads, and many others.

Hon. George W. Rafter, of the American Society of Civil Engineers, and William Pierson Judson, of the American Society of Civil Engineers, Deputy State Engineer, and others urged the Mohawk and Ontario route rather than the Mohawk, Oneida Lake and Seneca route as embodied in the referendum measure. This latter route was recommended most strongly by the Greene Commission and was favored by a majority of



the engineers employed by the State Engineer and Surveyor in making the surveys for the barge canals, as hereinbefore stated. Governor Benjamin B. Odell, Jr., in a message to the Legislature, in speaking of the so-called Ontario route, said:

"At the time when the traffic would be at its heaviest, it would be impossible because of adverse winds and dangers of navigation 'to navigate Lake Ontario,' so we are forced to the conclusion that the only practical route for canal traffic for a thousand-ton barge would be along the more expensive line, which can only be built at a cost, under the State Engineer's estimate, and assuming that the bonds were for fifty years and the interest at three per cent., of \$193,980,967.50, principal and interest. This plan only contemplates the deepening of the Champlain canal to seven feet, but the advocates of canal improvement now desire that it should be also deepened to a twelve-foot level, which would increase the cost to \$215,000,000. It is well known that no great undertaking of this character was ever accomplished within the engineer's estimate, but owing to the increase in the cost of labor and material there should be a factor for safety of at least twenty per cent. more, which would make a probable ultimate cost for construction of over \$255,000,000, principal and interest, from which should be deducted the interest on the sinking fund."

Those familiar with the difficulties of the navigation of Lake Ontario were of the opinion that canal barges could not safely navigate that storm-swept lake, and they favored the construction of the barge canal along the interior route through to Buffalo, which is the principal eastern port of the Great Lakes, where lake traffic ends and barge canal traffic was to begin. Accordingly that route was decided upon, but the referendum measure also provided for a barge canal connecting with the Erie at the Three-River point and Lake Ontario at Oswego.



On March 2, 1903, the Hon. Edward A. Bond, State Engineer and Surveyor, in response to a resolution of the Assembly calling for further information as to the probable cost of the several barge canals for which surveys had been made, transmitted to the Assembly his answer thereto, in which he submitted revised detailed estimates for the construction of the several canals, including damages. Such estimates aggregated \$100,562,993, including the cost of construction of a barge canal from Waterford to Whitehall, at an estimated cost of \$7,485,133, not included in the referendum measure as first introduced. After a conference of representatives of the several commercial organizations of the State, including such representatives of the Champlain canal as Hon. Frank S. Witherbee, Hon. John F. O'Brien, Assemblyman John M. Graeff, John R. Myers, Hon. Smith M. Weed, James Averill, William G. Burley, William A. Norris and others, it was decided to amend the referendum measure so as to include an appropriation for the construction of the Champlain barge canal. This aggregate amount was approximately \$18,000,000 in excess of the original estimates made in 1900, due to the increase in the cost of labor and material and also due to the additional estimates for the construction of the Champlain canal of the thousand-ton barge capacity, which was not provided for when the bill was originally introduced.

On March 12, 1903, Senator George A. Davis, chairman of the Senate Canal Committee, reported favorably

to the Senate from that Committee the amended canal referendum measure, entitled "An act making provision for issuing bonds to the amount of not to exceed \$101,000,000 for the improvement of the Erie canal, the Oswego canal and the Champlain canal, and providing for a submission of the same to the people to be voted upon at the general election to be held in the year 1903."

Several hearings had been held on the referendum measure in its original and amended form before the Senate and Assembly committees, and lengthy arguments had been made for and against it, and public sentiment was divided. Some of the rural counties were opposed, whereas Erie, Niagara, Orleans, Oswego, Madison, Oneida, Broome, Cortland, Tioga, Hamilton, Fulton, Montgomery, Schoharie, Clinton, Essex, Warren, Saratoga, Schenectady, Washington, Orange, Rockland, Suffolk, Nassau, Queens, Kings, Richmond, New York and Westchester supported the referendum measure in the Senate. In the Assembly, representatives of some of these counties voted against the measure. The contest in the Legislature was the culmination of a movement starting with the abolition of tolls in 1882, which was followed by a movement for the enlargement of locks and deepening of the prism, and then for an improvement known as the Seymour-Adams plan, and finally by the project recommended by the Greene Commission for the construction of a canal of the thousand-ton barge capacity. This movement, which had extended over a period of twenty years, aroused deep interest and was

fraught with extraordinary consequences to the commercial development of the State. It so far transcended in importance any ordinary parliamentary contest that it called forth the best efforts of all who had had any part in it, either in or out of the Legislature, and I quote from my work on "Waterways and Canal Construction in New York State," wherein may be found a detailed report of the barge canal agitation at page 337:

"During the long and strenuous debate, the friends of the measure were intense in their advocacy of it, and were called upon to defend its engineering, its fiscal and constitutional provisions, all of which were assailed by opponents, who were equally resolute in their attacks upon it. It was the largest measure ever submitted to or considered by a State Legislature in this country, and naturally aroused the deepest interest."

In that work may be found a history of the activities of the various Commerce Conventions, Commercial Organizations and representative citizens in formulating the State's canal policy and in presenting the reasons therefor to the people during the memorable campaign of 1903.

Advocates and opponents of the measure were sincere in their respective positions, and the scene on the final passage was one of the most dramatic ever witnessed in the Senate Chamber. On the final roll call 32 Senators voted in favor of the measure, representing the counties hereinbefore stated, and 14 against it, and among those opposed were the representatives of Troy, Albany, and Rochester. It passed the Senate on March 24, 1903, and the Assembly on March 26th, by 87 affirmative to

55 negative votes. It was approved by Governor Benjamin B. Odell, Jr., on April 7th, and became Chapter 147 of the Laws of 1903. It provided that the enlarged waterways were to have a minimum bottom width of 75 feet, an average surface width of about 120 feet, a minimum depth of 12 feet except over mitre sills and all permanent structures, where it was to have a depth of 11 feet; that the locks should be 328 feet long and have a minimum width of 28 feet and a depth of 11 feet of water over mitre sills. It also provided for the appointment of an advisory board of five consulting engineers, and the personnel of the board afterwards appointed consisted of Hon. Edward A. Bond, formerly State Engineer and Surveyor, who had charge of the survey for the barge canal in 1900; Major Alfred B. Fry, a member of the American Society of Mechanical Engineers; Major Thomas W. Symonds, of the United States Corps of Engineers; Hon. William A. Brackenridge, a distinguished railroad engineer, and Elmer Lawrence Corthell, who was the chief engineer in the construction of bridges over the Mississippi river and the construction of jetties in that river, and the author of articles on "Jetties, Levees and Ship Canals." \* Upon the resignation of Mr. Corthell, in 1907, Mortimer G. Barnes, a graduate of the University of Michigan, and the engineer in charge of the construction of the Poe lock and power-house at Saulte Ste. Marie, was appointed to fill the vacancy. He was formerly engaged in United States deep waterway survey in Northern New York. Upon the resignation of Hon. William

A. Brackenridge, the vacancy was filled by the appointment in 1910 of Hon. Joseph Ripley, who had been assistant and assistant chief engineer of the Panama canal. All these men were distinguished engineers, and as the act originally was passed their duties were largely advisory. Subsequently their powers were increased by requiring the submission of all plans and estimates by the State Engineer and Surveyor to the Advisory Board of Consulting Engineers, and that board was required to examine and report on the same before such plans and estimates were submitted to the Canal Board. Before any of the locks were constructed, the Board of Advisory Engineers recommended that the locks be 45 feet instead of 28 feet in width, and that modification was subsequently adopted for all the locks.

The functions of the Advisory Board of Consulting Engineers are such as to render that Board a check upon the plans and estimates of the State Engineer and Surveyor, as well as to keep the Canal Board advised of the work as it progresses, as all matters concerning the barge canal construction are submitted to that Board for its approval or disapproval, and a record is kept of their proceedings, which is a public record.

Before the barge canal law became operative under the Constitution of the State, it was necessary that it be and in fact was submitted to popular vote at the general election of 1903. The campaign for and against it was a long and strenuous one, and scores of meetings were held in various parts of the State, at which the speakers



presented reasons for and against its approval by the voters. At the election, however, that followed, there were 673,010 votes for to 427,698 votes against it, which gave it a popular majority of 245,312 votes.

### CONSTRUCTION OF BARGE CANALS

It became necessary to make surveys, soundings, borings and to obtain other data for topographical maps and plans of the work, and also to obtain information in relation to the character of the soils to be removed, which had been the occasion of controversies in former canal improvement plans, and also information in regard to such structures as locks, guard locks, gates, dams and storage reservoirs. Recourse was had to the experience in Germany and other foreign countries, where canal construction had gone forward under experienced engineers, to overcome many of the obstacles which confronted the State officials in undertaking a work of such magnitude, involving, as it did, the canalization of natural streams of water for approximately 350 of the 440 miles of barge canals to be built. European engineers had largely solved the difficulties besetting the navigation of natural streams of water, as evidenced by the success of the navigation of the Seine, the Rhone, the Rhine, the Elbe and the Danube, which are quite as impetuous, if not as torrential, as the upper Hudson, the Mohawk, the Oneida, the Oswego, the Seneca and Clyde rivers.

American, as well as European engineers, were making use of movable dams to regulate the flow of water



and to overcome the difficulties of rapid currents, floods and drouths. Mr. D. A. Watt, expert designer of movable dams, and a member of the American Society of Civil Engineers, submitted a report to the State Engineer and Surveyor of his investigations and observations in 1905, made upon a European trip, in which he described the types of dams, design of locks, materials of construction, lock gates, guard locks, valves, spars, lift locks, movable dams and apparatus for their operation, together with a vast amount of other valuable and technical information on the subject; and at about the same time, Major William L. Seibert, of the United States Corps of Engineers in Pittsburg, who was familiar with the movable dams on the Ohio and Monongahela rivers, also gave his opinion as to the general plan for canalizing the Mohawk river, and thereafter the Advisory Board of Consulting Engineers decided upon the bridge type of dam, with Boulé gates designed by D. A. Watt, C. E., similar to those in use on the Moldau river, in Bohemia, and on some portions of the lower Seine in France. These eight dams are now being constructed across the Mohawk, and are artistic as well as useful. Much other useful information has been gained from European sources with reference to the prosecution of barge canal construction.

On June 28, 1905, the Advisory Board of Consulting Engineers, in response to a resolution of the Canal Board calling for information as to the dimensions of the locks

of the barge canal, adopted a preamble and a resolution as follows :

“ That in the opinion of the said Board, the locks should be 328 feet clear in length between hollow quoins, 45 feet clear width, and 14 feet deep over mitre sills.”

But the Superintendent of Public Works, whose official approval was required, did not approve of more than 12 feet of water over mitre sills, and the State Engineer and Surveyor would not approve thereof, and it was finally decided that the dimensions of the locks of the barge canal should be 328 feet between hollow quoins, with a clear width of 45 feet and a minimum depth in lock chambers on mitre sills of 12 feet. This would admit of the passage of barges 43 feet in width, carrying 1,500 tons. Some contracts had already been let for barge canal work, and it became necessary to revise the plans and estimates for these accordingly. The new locks of the barge canals are being constructed in accordance with the most approved designs of modern lock construction known in this and European countries. The siphon lock at Oswego, now in operation, illustrates the advance in scientific lock construction over what was possible when the Western Inland Lock Navigation Company constructed its famous locks at Little Falls in 1792, now historic relics. That type of lock was originally designed by Professor Hotopp, of Hanover, and has been in successful operation in Germany since 1896. The Oswego siphon lock is operated by the lock tender with perfect ease, and the lock chamber is filled

and emptied noiselessly and without commotion, which was impossible under the old system of lock operation. The lift of the lock at Little Falls, which is set into the rock, is approximately  $40\frac{1}{2}$  feet from the lower to the upper pool, and is one of the largest single lock elevations in this country. The great Government lock between the Buffalo harbor, with a new channel 23 feet deep, which forms the western terminus of the Erie canal and the Niagara river at Black Rock, has an available length of 650 feet between hollow quoins, a width of 70 feet and a depth of 24 feet over mitre sills, and will admit of the passage of four canal barges at a single lockage. The double locks, each with 33 feet lift, to be built at Lockport, will take the place of the six locks now in use, which were considered remarkable engineering structures when designated to overcome the 66 feet difference in elevation between the upper and lower levels of the Erie canal. The last lock is at Troy, between canal and tidal navigation, but has no such functions as the great sea-lock at Ymuiden, in the North Sea canal. Altogether there are 54 locks, varying in elevation from 6 to  $40\frac{1}{2}$  feet. Of this number 34 are on the Erie, taking the place of the 72 old locks. In most of the locks of the barge canals, the chambers are filled and emptied through culverts running inside the walls, having side openings, entrances and outlets, and so adjusted that the weight of the water carries it through them. Large steel valves, of the counter-weighted, lift-gate type, are placed at the upper and lower ends of the culverts, which are forced

up and down in the walls. Four wheels are attached to the framework of the valves, which facilitate their operation. The lock gates are of the mitering single skin, motor type, carrying the principal loads as beams. In some cases the machinery is operated by electric motors, which are propelled by turbines sunk at the lower ends of the locks driven by the surplus waters flowing through them. The locks have buffer-beams at each end, and are built principally of concrete and are models of their kind in appearance as well as in utility. Both permanent and movable dams are being constructed for controlling the level of natural streams forming parts of the canal system, such as the great dam across the Mohawk at Crescent and that at Vischer's Ferry, as well as those of the Poirée needle type at Herkimer, above Little Falls, and also such as that at Delta, on the Mohawk, five miles north of Rome, and that at Hinckley, on the West Canada creek, forming storage reservoirs. The first of these reservoirs is in the shape of the Greek letter "Delta," four miles from north to south and two miles in depth on the base line, and has a flooded area of 2,800 acres. The Delta dam is approximately 100 feet high and 1,000 feet in length.

The capacity of the Delta reservoir will be 2,750,000,000 cubic feet, and the water shed will contain 137 square miles. The capacity of the Hinckley reservoir, comprising a flooded area of 2,300 acres, will be 3,445,000,000 cubic feet, with a drainage basin of 372 square miles. The location of these capacious reservoirs at the Rome

summit level affords a water supply for the Erie canal westerly as far as the Three River point and easterly to the Hudson river. The water for the Erie canal from Lake Erie to the Three River point is supplied from Lake Erie, the Genesee river, and Seneca and Cayuga lakes. These enormous reservoirs are fed by several streams, some extending far up into the Adirondacks and others into the foothills of the Catskills, and are deemed necessary to supply the extraordinary demands that will be made on them to fill the prism of the barge canal and its large locks, for they will unavoidably consume thousands of gallons daily in their operation. The planning and construction of these enormous reservoirs has been one of the most difficult problems attending barge canal construction. It is important that the Adirondack forests be preserved, in order that there may in the future be an adequate supply of water at the Rome summit level and in the upper reaches of the Hudson for barge canal and river navigation purposes.

The contract for constructing the dam, waste gates spillway, four locks, Black River canal aqueduct over the Mohawk river, and the re-location of the Black river canal at Delta, was let to Arthur McMullen for \$905,347. The plans have but recently been adopted by the Canal Board for the Hinckley reservoir, and the engineer's estimate of the cost is \$1,042,200. These were quite as perplexing problems as any that confronted the builders of the original Erie canal. They found it difficult to span rivers by aqueducts and to cross valleys by



embankments, such as the Irondequoit; but the builders of the barge canals in their work of canalizing rivers and regulating the flow of waters therein by movable dams and the creation of storage reservoirs for impounding waters in the spring time for use during the drouth of the summer months, notwithstanding the improved facilities therefor, have found full opportunity for the use of their superior training and more extensive engineering experience.

Delays in barge canal construction have been unavoidable. The successive administrations that have been in power since the referendum measure was approved were required to familiarize themselves with the work, and there has not been that continuity of effort possible under the prosecution of such undertakings supervised by commissions not affected by political changes. Under the present Constitution, however, it was necessary that the work be carried forward under the supervision of the Superintendent of Public Works and the State Engineer and Surveyor, and it was not possible to vest its supervision in a commission or in other officers. Plans prepared under the supervision of the State Engineer and Surveyor were subject to the revision of his successor in office before the same were submitted to and approved by the Advisory Board of Consulting Engineers, and that has resulted in delay, although possibly the State may have profited thereby. As the work has progressed, new and unforeseen difficulties have occurred, requiring engineering skill in their solution and the construction of



special machinery for overcoming them. Various forms of steam shovels, dipper dredges and buckets, revolving derrick excavators, cantilever excavators, electrically operated, dredging machines of hydraulic and of ladder types, slope-cutting and stone-crushing machines, bridge conveyors, suction dredges, compressed air and other devices have been utilized as the work progressed, and much ingenuity and skill were required to construct machinery adapted to the work that was economical in operation and effective in results. In some places the contractors were required to make an initial investment of a quarter of a million dollars in machinery and outfit, which might or might not be used elsewhere before they could proceed.

The mammoth bridge conveyor, 428 feet long, 90 feet high and weighing 660 tons, with its huge grab bucket weighing 21 tons, empty, having a capacity of a dozen cubic yards, which removed 54,000 cubic yards a month, installed by F. A. Maselli to remove the rock from the cut ranging from 12 to 36 feet in depth between the Genesee river and Spencerport, together with a 75-ton tippie incline and steam shovel of the Bucyrus type, affords some notion of what it was necessary for that one contractor to do in advance of his actual canal excavation. Special machinery was designed and installed on other sections of the work. All such is in marked contrast with the simple tools, machinery and appliances used by the contractors in 1817 to 1825 in building the original Erie canal. All varieties of soil and sub-soil have been

encountered, and in a few instances contractors have failed to complete their contracts and the State has been forced to take over the plants and proceed with the work; and then again some contractors have been dilatory and negligent, and the State authorities felt warranted in taking possession of their plants and proceeding with the work, or in re-letting it to other contractors, whose ability to proceed was assured. Modern canal building is attended with many difficulties unknown to engineers not familiar with river canalization and the construction of large storage reservoirs. The delays, therefore, in the initial stages of barge canal construction are thus largely accounted for, and it must be borne in mind that New York's undertaking is unparalleled in this or any other country in magnitude, and that the work is likely to be completed within a decade from the time of its inception, which is but a little longer time than was required to build the original Erie canal. The work is now going forward with commendable despatch, and several sections are already completed.

On January 1st, 1910, approximately 76 per cent. of barge canal work was under contract; 15 of the 53 new locks are now completed, with the exception of gates and operating machinery, for which plans are being prepared as fast as locks are completed. Contracts have already been let for hydro-electric power plants at Baldwinsville and at several locks on the three principal canals.

In June, there were 360.1 miles under contract and plans nearly completed for 54.6 miles. On September

1, 1910, the State Engineer and Surveyor reported approximately one-fifth of the three principal canals completed. The contracts for nearly the entire work will be let during the year, and it is now believed that the building of the Erie, Champlain and Oswego canals will be completed in 1914.

The construction of the Champlain canal from Waterford to Lake Champlain involves the canalization of the upper Hudson to Fort Edward, and the construction of a new canal from that point northward, including portions of the old Champlain canal and the bed of Wood creek. Sections of the canal between Fort Edward and Lake Champlain are already completed and contracts have been let for dredging the upper Hudson and for the building of locks and other works incidental to the improvement. Difficulties were encountered on one section owing to a soft or liquid formation discovered below the preliminary soundings when lock and prism construction was undertaken. The preliminary surveys did not disclose the existence of the soft substrata which occasioned the trouble. The siphon spillways, designed by George F. Stickney, supervising engineer, at Whitehall, Fort Edward and near Smith's basin are novel structures to relieve automatically the canal of the surplus waters that occasionally flow rapidly into it and must be disposed of with like rapidity to avoid serious results. Ordinary waste-weirs with usual spillways require too much space at those places, and the siphon type has been specially designed for that purpose.

Contracts for the locks at Waterford, Mechanicsville, Stillwater, Northumberland, Ft. Miller, Ft. Edward, Comstock and Whitehall have all been let, and the work of building such locks is in progress and in some cases completed. The Champlain canal will probably be completed some time before the Oswego and Erie canals are fully completed. The Federal government has made an appropriation for improving the upper Hudson between Troy and the barge canal terminus at Waterford, as well as below Troy, for deep draft vessels.

Work is rapidly going forward on the Oswego canal from the Three River point to Oswego. The work is divided into sections covered by several contracts for lock construction, excavation of the channel of the Oswego river, the building of a new dam and a bridge at Phoenix, with two Parker gates to regulate the flow of the river, a new dam at Minetto, and a new high dam at Oswego, and the construction of a dike on the Oswego river. The great siphon lock at Oswego is completed, and plans were approved by the Advisory Board of Engineers and Canal Board in June, for the dredging of the river between Fulton and Oswego, a distance of 9.73 miles, at an estimated cost of \$1,683,010, which is to be completed by May 1, 1913. Contracts have also been adopted for bridges and other work remaining to be done on the Oswego barge canal.

The importance of doing the work now on the Cayuga and Seneca canal was brought to the attention of the people by the annual report of Hon. Frederick C. Stevens,

Superintendent of Public Works, made to the Legislature January 15, 1909.

In 1909, the referendum measure, prepared under my supervision, passed the Legislature, was submitted to and approved by the electors at the general election in that year, the vote being 285,515 for the proposition to 216,418 against it, authorizing the issue of \$7,000,000 of bonds to provide funds for the construction of a barge canal from some point on the Erie barge canal in the vicinity of Fox Ridge, to connect with Cayuga and Seneca lakes. The dimensions of such canal were to be the same as those of the Erie, Champlain and Oswego barge canals. At the same legislative session an appropriation was made for a survey, and the results thereof submitted by the State Engineer and Surveyor in his report to the Legislature on January 24, 1910. That canal is to be built in the same manner as the three principal barge canals, and plans and estimates will be prepared under the supervision of the State Engineer and Surveyor, approved by the Advisory Board of Consulting Engineers and the Canal Board, when contracts may then be let and the work progress. The Seneca and Cayuga canal will bring in touch with the trunk line canals six interior counties surrounding the so-called "Finger Lakes" of Central New York, which are rich in agricultural and in some mineral products. Formerly these lakes formed highways between the coal fields of the South and the cities of Central and Western New York. It is believed that commerce over the Seneca and Cayuga canal will



be large enough to warrant the expenditure necessary for its construction and operation. These six interior counties, although opposed to the original referendum measure, underwent a change of sentiment, and presented through their leading canal advocate, Jared T. Newman, of Ithaca, to the Legislature in 1909 their claim for recognition in favor of an extension of the barge canal improvement to Cayuga and Seneca lakes. That sentiment expressed itself in a meeting of the Ithaca Business Men's Association, held in February, 1906, presided over by Professor T. F. Crane, Dean of Cornell University, and attended by members of the Cornell faculty and a large number of the business men of Tompkins and the other counties bordering on Cayuga and Seneca lakes.

Some conception of the magnitude of the undertaking in the construction of barge canals may be formed from the work already done and from what may be seen of the work now in progress. The use of concrete in modern canal and waterway construction has greatly reduced the expense of such work. Had it been necessary to use stone for locks, dams, bridges, approaches, retaining walls, culverts and other parts of the construction, it is doubtful as to whether or not the State would have undertaken the project. Such solid work as the concrete walls between the barge canal channel and the Oswego river, the retaining walls, approaches and great locks at Baldwinsville, the bridge and jetties at Sylvan Beach, the great locks at Little Falls, Rotterdam Junction, Waterford, Ft. Edward, Whitehall, and the great



aqueduct with a clear span of  $290\frac{1}{2}$  feet at Medina, said by Noble E. Whitford, C. E., editor of the *Barge Canal Bulletin*, to be "the most important piece of arch construction ever undertaken," as well as the solid and movable dams, bridges and other solid structures, afford some conception of the magnitude of the undertaking and the extent and adaptability of the concrete used in such solid structures. Had it been necessary to have used cut stone instead of concrete, the expense would have been much greater and the work much slower. Canvass White was one of the surveyors of the eastern division of the original Erie canal, and discovered hydraulic cement, made from the cement of a rock in Madison county, in time for its use in the building of the locks on the original Erie canal. From that discovery has come the use of concrete now in general use in waterway construction.

Barge canal construction involves many hydraulic problems, such as the hydraulic tunnel, 685 feet long, 16 feet wide and 15 feet deep, cut through the solid rock 40 feet under ground between the two levels at Lockport, where are being constructed through the solid rock two locks to overcome the elevation of 66 feet between the upper and lower pools.

The building of the barge canal system, as we have seen, has involved the application of some new principles in hydraulic engineering and the use of the latest approved types of locks, bridges, dams, and other structures for utilizing the beds of natural streams of water, and

intervening lakes and artificial waterways, for commercial and navigation purposes. All the problems incident to the canalization of rivers, the construction of vast storage reservoirs, the building of dams, bridges, locks, retaining walls and other permanent structures, for the diversion and control of natural streams of water at low ebb and at flood time, in a territory fed by mountainous streams, and subject to heavy rainfalls and annual floods, have been encountered, and, it is believed, as successfully met as the most skilled engineering talent made it possible to do, in carrying forward barge canal construction between the Great Lakes on the west, Lake Champlain on the north, and the tidal waters of the Hudson on the east. In addition to these engineering problems, it has also been necessary to formulate a fiscal policy to finance the project. Several constitutional amendments have been proposed and approved. Two referendum measures authorizing bond issues aggregating \$108,000,000 have been formulated and passed, with great difficulty, through the Legislature and finally approved by the people; and several supplemental Legislative acts have been passed to meet unforeseen obstacles as they have arisen from time to time in the progress of the undertaking. One of the last constitutional amendments introduced by me authorized the Legislature to increase the rate of interest on all bonds not theretofore issued and disposed of from three to four per cent., so that they might the more easily be sold at all times, regardless of market conditions. They cannot, however, be disposed of below par, and are

always sold at a premium, the amount of which depends upon the condition of the market at the time of sale.

In 1905, I visited and inspected several of the principal canals of France, Belgium, Germany and other countries, and judging from what I was able to observe on that occasion, I am of the opinion that our barge canal system will be an improvement on the waterways of those countries; although it may be said that the canalization and rectification of the Rhine has made it one of the principal commerce-bearing rivers of the world. It is possible that in case the commerce on the barge canals, or any portions thereof, warrant it, electric propulsion may be provided, as I saw in operation on the Teltow canal, connecting the river Spree with the Havel. This is quite likely to occur in case the surplus waters at the locks are sufficient to develop more power than may be required for lock operation. The State has wisely provided for the acquisition of lands immediately adjacent to the barge canals, and at the various locks thereof, for the installation of electrical machinery to develop electric power for canal and other purposes. The new barge canal system follows the original highways of travel from the Hudson on the east to the lakes on the west and north, except in some such places as the section between the pool of the Genesee river in the southwesterly part of Rochester and the present line of the old Erie canal east of Spencerport, covered by Contract No. 6, one of the earliest to be let to determine whether or not the work on that rocky section could be done within the original

estimates, which would afford some indication as to whether or not the entire work could be done within the one hundred and one million dollars.

In other words, after the lapse of a century, there is to be a return to the original routes of trade and travel, which were along the natural water courses of the State, and their rehabilitation, by their canalization and inclusion in the barge canal system, with such artificial structures as modern science suggests for their utilization to their maximum capacity, makes them again useful highways of commerce.

Economy in the cost of transportation of material, products and commodities promotes trade relations as well as agricultural growth and industrial development. The people of this State have been sagacious in maintaining for nearly a century intercepting waterways between the Hudson river and the Great Lakes, over which has floated much of the tonnage designed for transshipment, as well as something of their domestic tonnage at rates below the average rail rate. The savings in the cost of transportation by canal and by water, compared with the cost of transportation by rail, have operated as prime factors in promoting the agricultural growth and industrial development of the State. It is now generally recognized in this and European countries, where waterways and railways are both owned and controlled by the Government, that transportation by water, after making proper allowances for fixed charges and operating expenses, is more economical than

transportation by rail. This accords with the well-known physical tests made in Europe and elsewhere, in effect that a horse can haul a boat with a cargo five-fold heavier than the weight which it can haul on a car, after making due allowance for resistance and rate of speed in each case. The people of New York are fully alive to the economical and commercial advantages of such waterways as are comprised in their barge canal system and are going forward with them with something of the same enterprise that Canada, Germany, France, Belgium and Holland are exhibiting in the construction of their respective systems of internal waterways. The supervision and administration of canal affairs are vested in the Superintendent of Public Works and State Engineer and Surveyor and certain Boards, the most important of which are the Canal Board, consisting of the Lieutenant Governor, Secretary of State, Comptroller, Treasurer, Attorney General, Engineer and Surveyor and Superintendent of Public Works, and the Advisory Board of Consulting Engineers. The functions of these Boards have already been sufficiently stated.

The Canal Terminal Commission, however, was a temporary statutory board, performing important work in 1909 to 1911, and then ceased to exist. Its members visited and inspected the various harbors of the State connected with the canals, as well as all harbors in the State where freight carried on the canals may be received or discharged. The Commission reported to the Legislature on March 1st, 1911, giving its findings, with



recommendations as to canal terminals, special facilities for handling canal freight, the available sites for such terminal structures and the probable cost of construction thereof. The Commission ceased to exist upon the rendition of its report. The members of the Commission were Frank M. Williams, State Engineer and Surveyor; Frederick C. Stevens, Superintendent of Public Works; Edward A. Bond, chairman, Advisory Board of Engineers; Harvey J. Donaldson, Special Examiner and Appraiser of canal lands; and their secretary was Alexander R. Smith, of New York.

At a conference of two hundred representatives of the various municipalities and commercial organizations of the State, held at Albany, March 27th and 28th, 1911, a committee, of which Hon. George Clinton of Buffalo was made chairman, was appointed to draft and present a referendum bill to the Legislature to authorize a bond issue to raise funds to construct terminals at various canal ports, including those recommended by the Terminal Commission, and others. That committee is engaged in the preparation of the measure as this work goes to press. Such terminals will be of an improved type, equipped with all modern appliances for the handling of all classes of freight. The barge canals will thus rival railroads in their equipment for the expeditious and economical handling of the vast local and through tonnage that will be drawn to them. Eventually they will become great arteries of commerce, pulsating with industrial life, begotten as a result of



their existence and operation. They will be potential regulators of freight rates and largely augment the volume of water-borne commerce passing between the interior ports of the State, as well as between the Great Lakes and tidewater. The people, actuated by the spirit of enterprise, as evidenced in many public achievements, have ever been sagacious enough to avail themselves of the topographical configuration of their territory for the improvement of natural waterways and the construction of artificial ones, and the unrivalled opportunities afforded by the Great Lakes on the West and the Atlantic Ocean on the East for the upbuilding of domestic and foreign commerce, since Cadwallader Colden in 1724, in his "Memorial Concerning the Fur Trade of the Province," first called attention to the advantages to accrue from the improvement of the navigation of the waterways of New York, which led to their improvement and to the building up of its artificial waterways, and to some extent, in consequence of the active and diversified traffic over them, ultimately to the commercial supremacy of the State over that of other States of the Union. In building the original canals, DeWitt Clinton and others foresaw this, and the Barge Canal advocates of this later period, in conformity with a broad and enlightened public policy of constructive statesmanship, are laboring to provide the means for the economical transportation of its various products and commodities, which will effect large savings in freight rates to the people of the State and thus promote their general welfare.

## CHAPTER X

# BANKING DEPARTMENT

BY MAURICE L. MUHLEMAN

*Formerly Deputy Assistant Treasurer, U. S., at New York  
Author of "Monetary and Banking Systems"*

THE story of the evolution of the Banking Department of the State of New York is the story of the development of one of the greatest systems of banking institutions in the world and of its needs, in the course of its growth, to bring it to a high standard of efficiency. The system developed, despite many errors of judgment, and survived many vicissitudes, standing today as an example without precedent of results attainable through well-directed energy and enterprise.

The banking resources of the State constitute nearly thirty per cent. of the aggregate for the United States and nearly one-tenth of the world's aggregate: this pre-eminence has been attained within the past half century and its greatest growth accrued during the past decade.

The history divides itself into four epochs, the first of which covers the period prior to 1838, the second extending to 1866, the third ending with 1896, and the fourth embracing the years between that and the present. During the first of these periods banking was monopolistic, due chiefly to the fact that the people of the State,

having in mind the disastrous experience with the Continental currency of the Revolution, were averse to granting general banking powers, which in those days, and for a half century following, meant chiefly note-issuing powers; deposit-banking was an insignificant factor in the business.

Corporate banking actually dates from 1784, when the Bank of New York was organized (the third bank in the United States), under "articles of association" drawn by Alexander Hamilton; it did not obtain a charter until 1791. Only three further charters were granted up to 1804, one of them obtained by a shrewd device which misled the Legislature. In order to prevent banking under articles of association, an act was passed in 1804 prohibiting corporate banking without specific charter grants.

In the circumstances every application for a bank charter involved political contests; banking business was profitable and the politicians wanted some of the profits; intrigues, accompanied by scandalous practices, were not uncommon; both charters and the distribution of bank stock became political spoils.

No restrictions upon the business of banking were included in charters until 1816, when the requirement that notes must be redeemed in specie was inserted in the grants passed in that year and subsequently. Whole-some features in later charters included regulation of loans, actual payment in of part of capital, requiring reports under oath, fixing liability of shareholders and responsibility of directors and officers, prohibiting dealing

in real estate and stocks, and forbidding dividend payments out of capital. These were embodied in the Revised Statutes of 1827, but were not applicable to all banks, and were frequently evaded. No limit upon note-issues was fixed until 1829.

It is noteworthy that despite the lack of regulative laws, no bank failed prior to 1819 and the second failure did not occur until 1825. In 1828 there were 40 banks in the State. As many of the charters were then about to expire, the opportunity was offered to provide regulation, and public opinion favored it.

The act of April 2, 1829, known as the safety fund law, was recommended by Governor Van Buren, upon suggestions elaborated by Joshua Forman, of Syracuse. It required payment of capital in full, the creation and maintenance of a fund equal to three per cent. of the capital to pay the debts of insolvent banks not covered by assets; established a Bank Commission to examine the banks, penalized false statements and violations of law, limited note-issues and loans. Thus, after 45 years of development, supervision was provided, but the business was still monopolistic and disgraceful incidents continued.

The number of banks increased rapidly; in 1837 there were 98 in operation; only two had failed since 1825, and thanks to an act of May 16, 1837, authorizing suspension of specie payments, no failures occurred in the crisis of that year. The safety-fund feature was not tested until 1840, but in the meantime (1838) legislation

radically altered the system, without discontinuing the safety-fund banks.

Eleven of these banks failed in 1840-1842, and the debts far exceeded the safety fund; it was found that they had issued about \$700,000 in unauthorized notes. The State helped the fund with \$900,000 in loans, and although practically all notes (including those not authorized) were ultimately redeemed, noteholders suffered losses through delays. Had the fund been made liable for notes alone originally, it would have proved ample. In 1842 the law was amended to that end, but it was then too late.

The act of April 18, 1838, generally known as the free banking law, because it abrogated the need for obtaining special charters, was the result of a political agitation begun in 1835. The chief purpose in view was severing banking from politics. The act permitted individuals or associations to deposit bonds of the United States and of States, and mortgages, and receive notes from the Comptroller, countersigned by him; in case of failure the securities were to be sold to redeem the notes. A specie reserve of twelve and one-half per cent. and a penalty for refusal to redeem notes were prescribed. No further special charters were to be granted. The minimum capital for banks was fixed at \$100,000.

Again banks multiplied; by 1848 there were 171 reporting. Weaknesses in the new system soon developed. On the first failures the securities sold fell short of paying the notes by 32 per cent.; bonds of some of the



States were far below par; hence after 1840 only New York State bonds (and mortgages) were to be accepted as security; in 1849, United States bonds were again admitted; in 1863, mortgages were excluded.

The specie reserve feature was repealed in 1840, but country banks were required to redeem notes at New York or Albany (afterwards also at Troy) at not more than one-half per cent. discount; this proved a source of profit, and in 1851 the rate was reduced to one-fourth per cent.

The Bank Commission was abolished in 1843 and supervision given the Comptroller, who thereafter had custody of the note-plates and registered the issues; quarterly reports were required, and in 1847 these were to be made on dates fixed by the Comptroller. Since, under the law, property liens could be converted into notes, speculative note-issuing became the sole business not only of "individual bankers" but of many incorporated banks. Corrective legislation in 1844 and 1848 eventually checked this.

Public sentiment had by this time become so far crystalized that in the revision of the Constitution in 1846 several important banking principles were definitely fixed. The Legislature was prohibited from passing laws permitting suspension of specie payments or granting or extending special charters for banking; the State reserved the right to amend, alter or repeal all future general or special incorporation acts; notes were to be a first lien upon assets of banks in case of insolvency;



and the principle of double liability of shareholders of banks was imposed, to become effective in 1850.

By the act of April 12, 1851, the Banking Department was established, in charge of a Superintendent, appointed by the Governor, subject to confirmation of the Senate, for a term of three years. Experience during the next decade brought about legislation to enlarge his powers and to strengthen the system.

The number of banks grew steadily until 1856, when the highest number (338) was reached. The safety-fund banks continued under the law of 1829, converting into free banks as their charters expired; the last of these ran to 1866.

In the cities the character of the business changed very largely to deposit banking, so that in 1851 the note-issues of all banks then reporting were only a little more than half of the individual deposit liabilities; in 1860 the proportion was a little more than one-fourth.

The increase in liabilities brought with it the need for reserves. Soon after the New York City banks associated themselves for the purpose of clearing checks (1853), a uniform ratio of cash reserves (so necessary to fortify the banks in a financial center to which the city had now attained) was voluntarily agreed upon. Weekly reports were also required by the rule.

The crisis of 1857 caused a short suspension of specie payments and some failures; but it is to be recorded that whereas noteholders from 1840 to 1850 had lost an average of 22 per cent. on notes of failed banks, due to impaired

values of securities, the average loss from 1850 to 1861 was under four and one-half per cent. Obviously the bond-security system was safe only if the securities deposited were good; apparently it required bitter experience to teach this lesson. The defect of the inelasticity of such a system did not become manifest until many years later. Conditions in December, 1861, due to the Civil War and the action of the banks in supporting the Federal treasury, again compelled suspension of specie payments, which continued until 1879.

The banking system of New York was in 1863 not surpassed in excellence by that of any other State; the complaint against the currency of the country furnished by the State banks, could not be directed against the notes issued under its authority. But it was compelled to submit to a temporary submergence by the national system (modeled upon the New York law) partly because of the exigencies of this period, partly because banking in so many of the other States was under lax control and without supervision.

New York did not submit without a struggle; the Superintendent of the Department proposed to attack the constitutionality of the national banking system, which undertook to permit corporations not formed under the State's laws to issue notes within its borders, contrary to its laws. But the force of circumstances was too strong; and when the Federal government resorted to its taxing power to drive State bank notes out of existence, the Legislature consented to the intrusion of the national

system and assisted the movement of conversion of State banks to National ones by an act of 1865; only 85 State banks remained at the close of 1866. In the report for that year the Superintendent gloomily predicted the total disappearance of the system. It was even at this date supposed by many that banking without note-issues was impossible; later history refuted this notion conclusively.

But the Department found a field for work in another direction; another class of banks had been created, viz., savings banks. Fortunately for the people, these were at the outset of the mutual class, although created by special charters which were often defective. The oldest one dates from 1819. The number increased rather slowly at first, but when, in 1857, they were placed under the supervision of the Department, there were 54, with nearly \$44,000,000 of resources. Their method of business had not been uniformly sound and a number had liquidated, to the great distress of a large and thrifty class. In a short time the Department introduced reforms, and as these became embodied in the laws, the institutions developed remarkably; by 1866 there were 86 of them with \$141,600,000 resources.

The Superintendents of the Department from its creation to 1866 were: David B. St. John (1851), Marius Schoonmaker (1854), James M. Cook (1856), Henry H. Van Dyck (1861), Edward Hand (1865) and George W. Schuyler (1866).

It appeared in 1866 that State banking would be entirely superseded; by that time the National banks

numbered 308; by 1868 the number of State banks was reduced to 44, which was the lowest figure reached, although the lowest record of resources was made in 1867, when it stood at \$61,632,003; thereafter they again slowly increased in number and importance.

There were sundry amendments of the laws; the discount rate was fixed at six per cent. and excess charges declared usurious; the capital required was reduced in accordance with population of towns to \$50,000 and \$25,000 (this helped to increase the number of small banks); investments in interest-paying bonds of the Government, State and municipalities of the State were permitted; the examining powers of the Superintendent were enlarged and the general system perfected in minor details.

In 1868, an exhaustive examination of the status of the savings banks was made by Deputy Superintendent Keyes, and recommendations looking to the strengthening of these institutions were reported, which were finally adopted by the Legislature by a general law in 1875. The absence of uniformity respecting management and investments was a glaring defect. The general act provided uniformity and abolished special charter grants and privileges. But the careful examinations and elaborate reports now required were not provided for until later, and not until 1880 was the requirement that investments be limited to bonds of the Government, the State or municipalities in the State, and to mortgages, passed. In 1877 the maximum rate of interest to be paid on deposits was fixed at five per cent.

There had been an undue increase of savings banks. When the general law went into effect there were 158 ; a number were compelled to liquidate under the new dispensation, and hence by 1882 there were only 128; thus there was a diminution of deposits in several years. By January, 1880, the amount stood at almost exactly the figure for 1876, viz., \$319,260,000.

Another class of "moneyed corporations" was brought under the supervision of the Department in 1874 — trust companies — which were destined to play so important a role in the financial history of the State later on. The first of these companies was chartered in 1822, and there were only six in 1866; in the three years following ten were chartered: their combined capital was \$19,500,000 in 1873, but they were not all actively operating; only twelve reported officially, with capital a little under \$12,000,000 and total resources about \$70,000,000. They were required to furnish reports and subjected to examination; their deposits and loans were restricted to ten times the capital. The Legislature continued to grant special charters and the Department was compelled to resist the tendency to increase the number without due consideration. Safe-deposit companies were also placed under the supervision of the Department by an act of 1875; there were then six of these, capitalized at \$1,300,000.

Another class of semi-banking corporations gave the Department some concern, viz., building-loan associations. First, given status in the law by an act of



1851, these organizations had become quite numerous; in 1875, they were required to file reports with the Department; but it took a number of years to bring them under full supervision.

The period was clearly one of development of the State's functions of guarding the public interest with respect to its fiduciary corporations. By 1881 the need of a codification of all the laws was pressing, and this was accomplished July 1, 1882.

The Superintendents following Schuyler, in this period, were: Daniel C. Howell (1870), DeWitt C. Ellis (1873), and A. Barton Hepburn (1880).

The resources of the banking corporations at the beginning of 1883 were as follows:

Discount banks . . . . .	\$149,261,860
Savings banks . . . . .	472,927,319
Trust companies . . . . .	143,889,348
Total . . . . .	<u>\$766,078,527</u>

There were operating in the State at the time 315 National banks with \$633,134,000 in resources. Thus the State banking affairs were larger than those of the National banks doing business in the State.

The banking code of 1882 re-enacted the provision permitting issues of notes upon bond-deposits, and this remains the law to this day, although of course not used, owing to the ten per cent. Federal tax on State bank notes. A provision in the act of 1882 permitted collateral loans to be made at any rate of interest by special contract, notwithstanding the usury law. It was silent on



the question of reserves against deposits; this feature was, in fact, not provided for until 1890, when the New York City banks were required to hold fifteen per cent. and country banks ten per cent.; but only half thereof need be in cash, the other could be in balances with approved reserve banks in the State. National banks in the city were required to hold twenty-five per cent., all cash, and those in the country fifteen per cent., of which two-fifths cash. Most of the State banks in the city complied with the Clearing-house plan, which favored a twenty-five per cent. cash reserve.

Other amendments during the period under consideration, many of which were repeatedly urged upon the Legislature by the Department before adoption, included the following :

Loans to any one person or firm were limited to one-fifth of the capital; and loans to officers were placed under special restrictions; loans on their own capital stock were finally prohibited. Directors were required to be *bona fide* stockholders. The creating of a surplus fund out of profits was made compulsory.

As to savings banks, the field for investment was enlarged to include bonds of numerous municipalities in other States. They were prohibited from doing business in rooms connected with discount banks, and were required to advertise dormant accounts annually.

An act providing for the incorporation of trust companies under a general law became operative in 1887; the consent of the Department was required as a

condition precedent. In the same year, building-loan associations were subjected to examination, and in 1892 definitely placed under the complete supervision of the Department. There were at this time 413 of these associations, with assets amounting to \$37,285,000.

Foreign financial corporations were coming into the State for business and their regulation called for legislation; a law of 1870 provided for licensing some of these, and in 1896 an act was passed requiring them to deposit \$100,000 with the Department as a protection to depositors and creditors in the State.

The prevalence of private banking-houses, doing business under corporate bank names, was a source of anxiety to the Superintendents, but effective action upon this subject was delayed until 1892. The question of over-certification of checks was also frequently brought to the attention of the Legislature, but no action was taken.

The great shrinkage in National bank circulation, about 1892, gave cause for an expectation that State banks would again be permitted to issue notes, and the then Superintendent was gratified that New York was prepared to do so at once; but the movement in that direction never reached fulfillment.

At the close of 1896 the resources of the banking institutions of the State stood as follows:

Discount banks .....	\$ 280,691,855
Savings banks.....	812,173,632
Trust companies .....	396,742,947
Total .....	<u>\$1,489,608,434</u>

The National banks doing business in the State reported their resources at \$837,555,973. Thus the State organizations had progressed in greater measure than the National ones.

The final period in the history of banking in the State is made notable by the expansion of the business of the trust companies. These corporations came to a realization of their powers as financing agents, and their ability to attract funds by paying interest upon current deposits enabled them to undertake such business. The great industrial expansion of the period called for such agencies, and New York City, now becoming one of the great financial centers of the world, was naturally the place where these companies multiplied most rapidly. But they also entered the general banking field and became competitors of the savings institutions as well as of the discount banks, without having imposed upon them the protective features of either; their operations were under lax restrictions, and they were not required to hold reserves against deposits (until 1906), although they carried larger ordinary deposits than the discount banks.

Neither the Legislature nor the Banking Department was prepared to deal effectively with the remarkable development which followed. True, the law gave the Department discretion in permitting new companies to be organized, but this was not fully exercised; and although there were only two failures prior to 1907, the great increase in number was followed by voluntary

liquidations and mergers, indicating an excessive supply. While the capital required was large (\$500,000 minimum for New York City), and although the law required that it be fully paid up and invested in bonds and mortgages, the business done was largely banking without many of the usual safeguards: the companies with special charters claimed powers and privileges which were not exercisable by the others.

The Department opposed legislative reserve requirements until after the New York Clearing-house, in 1902, adopted drastic resolutions on the subject. It urged that the investment of capital in securities was a safeguard; that the trust companies invariably had large deposits with the discount banks, which served the purpose; that to require substantial cash reserves would cause a contraction of the money supply. It may readily be assumed that the companies themselves were opposed to a compulsory reserve law, and used their powerful influence to prevent its enactment.

The reserve law of 1906 required that companies in New York City hold ten per cent. and those in the country five per cent. on their deposits, but not more than one-third thereof need be cash; after the troubles of 1907, the rate was increased to fifteen per cent. for the City and ten per cent. elsewhere; in Manhattan all to be cash, in other boroughs and elsewhere five per cent. might be in deposits in banks.

Among other amendments enacted were: Provision for more frequent examination and more frequent reports

of condition; provisions to induce directors to perform their duties; further limitations upon loans to one-tenth of the capital; forbidding investments in stocks of other corporations beyond ten per cent. of the capital thereof; regulating syndicate operations. Whereas formerly the Department asked the Legislature to prescribe weekly reports of trust companies, it was found in 1908 that the law as it stood gave the power to call therefor, and they have since been exacted.

The discount banks were also required to keep larger reserves from 1908 onward, viz.: In New York City, Manhattan, twenty-five per cent., of which fifteen per cent. in cash; other boroughs, twenty per cent., one-half cash; elsewhere, fifteen per cent., of which two-fifths cash; the remainder in each case to be in deposits with approved reserve banks. A law of 1905 prescribed examinations by directors of banks and trust companies at least twice a year.

The savings banks also expanded during the period, but in a lesser ratio than the trust companies. In the endeavor to enlarge their field for investments, high-class bonds of railway companies incorporated by the State were included in 1898; this led to annual legislative bills to include bonds of other railway companies, and the list was soon a long one, not in every case showing judicious choice. As the income returns on investments diminished, the banks were compelled to reduce their interest payments. Despite the opposition of the Department, taxes were imposed on the savings banks. Upon the other hand,



the Department urged a prohibition of the use of these banks by persons of considerable means, able to make large deposits and thus evade taxation. In 1908, the amortization of investments was provided for.

The building-loan business had developed upon lines regarded as reprehensible, and a number of failures showed scandalous abuses of the law; the evil features were gradually eliminated, and the business placed upon a sound footing. The intrusion of foreign banking and trust companies, without placing themselves under the supervision of the Department, was also checked.

In 1895, the Legislature had permitted the organization of associations to make loans on personal property (incorporated pawn-shops), and placed this business under supervision of the Department, without adequate regulative powers. Over 100 of these corporations were organized, and most of them became instruments of oppression. When the law was amended in 1902, at the instance of the Department, the regulation caused all but fifteen of them to close.

The large immigration during the period gave rise to a class of private bankers to cater specially to this portion of the population; many of them were in the hands of "sharks," and the losses of confiding depositors were considerable. After repeated attempts to regulate this business, the Department obtained, in 1910, a law which will very probably accomplish the purpose.

For many years the great cost and delay of liquidating insolvent banking institutions was regarded as scandalous



by the thoughtful people of the State; the Department frequently directed attention to this glaring defect. An act of 1902 showed an endeavor to correct it, but the results were not satisfactory. An act of 1908 devolved the duty of settling the business of failed institutions upon the Department, and the great saving of expense to creditors thereunder has already been demonstrated.

The remedial legislation of 1908 was in part due to the collaboration of a special commission appointed by Governor Hughes. It gave the Superintendent much greater power to enforce regulations.

The resources of the institutions in 1910 stood as follows :

Discount banks .....	\$ 617,400,000
Savings banks.....	1,676,416,000
Trust companies .....	1,622,100,000
Total .....	<u>\$3,915,916,000</u>

or an increase of 163 per cent. in the period since 1896.

The resources of the National banks of the State stood at \$2,187,720,000, an increase of 161 per cent.

In no field of the State's activities to guard the public interest is there greater need for watchful care than in the regulation of the financial institutions to which the people confide their means. The history of these corporations show that the expectation of increased gains too often leads to wrong practices and evasions of the laws. The evil cannot always be reached by statutes; the indispensable need is efficient supervision. This is the function of the Banking Department. Its work has

not always been perfect; but much of the imperfection has been due to inadequate legislation. The crisis of 1907 would have been less severe had the regulation of all institutions been more efficient. Yet, upon the whole, its record compares favorably with those of the best of the States, and is so far superior to most of them that New York's system and the improvements therein have served as models for many of the others. With such an aggregate of means in its charge, the State owes it to its people to maintain that superiority.

The following statistics show the growth and present conditions of the banks and other corporations under the supervision of the Banking Department :

## FROM END OF 1882 TO 1910

Year	STATE BANKS		SAVINGS BANKS		TRUST COMPANIES	
	No.	Resources	No.	Resources	No.	Resources
1882	84	\$160,716,000	127	\$472,929,000	12	\$143,889,000
1890	166	254,163,000	124	667,865,000	32	280,688,000
1896	212	280,691,000	129	812,173,000	39	396,742,000
1900	200	380,712,000	129	1,066,019,000	59	797,983,000
1910	202	617,400,000	142	1,676,416,000	87	1,622,100,000

	NATIONAL BANKS		ALL STATE INSTITUTIONS	Savings	Average
Year	No.	Resources	Resources	Accounts	Deposit
1882	315	\$633,184,000	\$777,534,000	1,095,971	\$376.05
1890	319	719,410,000	1,202,716,000	1,477,819	388.20
1896	320	935,848,000	1,489,606,000	1,736,968	413.46
1900	336	1,312,870,000	2,244,714,000	2,072,190	457.06
1910	438	2,187,730,000	3,915,916,000	2,886,910	528.91

In addition to the \$3,916,000,000 of assets thus under the Banking Department in 1910, there were 252

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

building-loan organizations, resources \$49,600,000; mortgage loan companies with \$13,000,000, other companies with \$12,127,000; making in all, 756 corporations, with over \$4,000,000,000 of resources.

For comparison, the following data relative to the banking resources of the United States and of New York State are presented for 1909 (the latest year for which full statistics are available):

1909	All United States	New York State	N. Y. %
National bank resources.....	\$ 9,368,884,000	\$2,291,474,000	24.4
State bank resources.....	3,338,669,000	610,421,000	18.3
Trust companies' resources ..	4,068,535,000	1,604,203,000	39.4
Savings banks resources.....	4,072,710,000	1,628,916,000	39.9
Total .....	\$20,848,798,000	\$6,135,014,000	29.4
Average per capita resources.	\$213.42	\$681.66	
Savings banks deposits.....	\$3,713,406,000	\$1,483,449,000	40.0
Savings banks depositors .....	8,831,863	2,831,380	32.1
Average deposit .....	\$420.45	\$523.93	
Per capita savings .....	\$41.26	\$164.82	

These figures show the pre-eminence of New York State in the banking field.

## SUPERINTENDENTS OF BANKS, 1883-1910

A. Barton Hepburn,	April 13, 1880
Willis S. Paine,	April 27, 1883
Charles R. Hall*,	October 1, 1889
Charles M. Preston,	December 23, 1889
Frederick D. Kilburn,	January 8, 1896
Charles H. Keep,	January 17, 1907
George I. Skinner*,	July 1, 1907
Luther W. Mott,	October 16, 1907
Clark Williams,	October 24, 1907
Orin H. Cheney,	November 24, 1909

\* Deputy and Acting Superintendent.

## CHAPTER XI

### INSURANCE DEPARTMENT

THE Superintendent of the Insurance Department receives his appointment from the Governor (by and with the advice and consent of the Senate) and holds office for the term of three years and until his successor is appointed and has qualified. He has control and supervision of all insurance companies, corporations or associations organized in or transacting business in the State; insurance companies of foreign governments deposit securities with him for the protection of policy-holders residing in the United States. Insurance companies organized under the laws of other States or countries are required to obtain renewals of their authority from the Superintendent each year. He is authorized to refuse admission to any company, corporation or association applying for permission to transact insurance business in the State, whenever, upon examination, the capital stock of the same is found to be impaired and also whenever such refusal to admit shall best promote the interest of the people of this State. Such companies are prohibited from transacting business in the State until they first have, in writing, appointed the Superintendent to be the attorney of the company in and for this State, upon whom process in any action or proceeding

may be served. The companies, corporations and associations under the supervision of the Superintendent are subject to visitation and examination by him or such persons as he may designate. Their conditions and transactions are reported to him under oath at regular intervals, abstracts of which are made and transmitted to the Legislature in his annual report to that body. The Superintendent is required to give a bond of \$25,000 for the faithful discharge of his official duties and is prohibited from being directly or indirectly interested in any insurance company. His salary is \$7,000 per year, and he is allowed deputies and necessary clerks to discharge the duties of the office. The entire expenses of the Department are paid by the corporations under its supervision. The seal of the office is the Arms of the State surrounded by the inscription, "State of New York — Superintendent of Insurance."

Massachusetts is to be credited with being the first State in the Union to create a distinct insurance department. In 1837 she enacted a law which, in its essential features, has since been adopted by all of the other States, compelling the insurance companies wishing to do business within their respective territories to first obtain authorization so to do from the State and then to file with the department annually, or more frequently if requested, a detailed report of their financial condition, the extent of their liabilities, the amount of premiums received and that paid out in losses. At first, confined to fire insurance, these departments now have supervision over fire, life,



marine, casualty, surety, credit-stock, mutual and co-operative — and many other forms of insurance, rivalling almost in their variety the hazards of Lloyds. The New York department is recognized as being one of the great supervisory departments of this country and, incident to the number and importance of the insurance corporations supervised by it, the magnitude of its work is probably greater than that of any other similar department.

Although Massachusetts was the first State to establish an insurance department, New York, so early as 1830, began its supervision of insurance matters. The Revised Statutes of that year provided that all “monied corporations” (which term included insurance companies) should make annual reports of their condition in a prescribed form to the Comptroller; and Comptroller Fillmore, in 1848, prepared a new blank for these annual statements. These blanks required life insurance companies, under the heading of liabilities, to report the face of all their outstanding policies, instead of the net value of such policies. Such attention as the Comptroller could bestow upon insurance concerns appears, for the time being, to have been sufficient for the safeguarding of policy-holders and the general welfare. Certainly no grave scandals were associated with the management of the companies, although the warning cry had been heard in the great New York fire of 1835 that a number of these had written policies too freely; and in due time, as the assets of both fire and life corporations increased and



the character of their investments demanded scrutiny, it became evident that the Comptroller, with his multifarious duties, could not give to this special interest the more searching and stringent supervision that public policy clearly indicated. A separate department was imperative.

A bill to that effect was introduced in the Legislature of 1856, at the instance of Comptroller Cook, but, being strongly opposed by the fire insurance companies, it failed of passage. Certain investigations, however, conducted in 1858, renewed the movement in behalf of a separate department, and among its most earnest advocates was the New York Board of Fire Underwriters, which urged it upon the Legislature of 1859. A bill, in accordance with their recommendation, was framed. This bill, originally drawn so as to become operative that year, was objected to by Comptroller Church, upon the ground that its immediate enforcement might seem to reflect upon the supervision of insurance affairs by his office; and it was amended so as not to take effect until 1860. Thus amended, it became a law, and William Barnes, a Republican, who had made an enviable record as an insurance examiner, and afterward became authoritative in insurance law, was appointed the first Superintendent of the Insurance Department, January 12, 1860. He retained the position continuously until February 3, 1870, holding even under Governor Seymour, a Democrat, a signal testimony to his official worth. He is

living, in his 87th year, on Nantucket Island, vigorous in his mental faculties and still taking a deep interest in insurance matters.

For several years, the force of the Department consisted of the Superintendent, a deputy, and three clerks. Such force now includes, besides the superintendent, three deputies, a chief actuary and two assistant actuaries, three chief examiners, an auditor, a statistician, a registrar, a cashier, a chief and an assistant chief of the liquidation bureau, a counsel and about one hundred examiners, clerks and employees of different grades. This force is about equally divided between the headquarters in the Capitol at Albany and its New York City office at 165 Broadway. At the time of its organization it assumed supervision over 172 fire, 14 marine and 17 life insurance companies. The classified, comparative table (the last such table published by the Department), printed on the following page, shows the number, kind and financial status of companies doing business in the State of New York, December 31, 1859, and December 31, 1908, respectively, and reveals the enormous growth of the insurance business during the period specified and the consequently constantly increasing scope of the province of the Department.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

NUMBER OF COMPANIES	CLASSIFICATION	ASSETS		LIABILITIES EXCEPT CAPITAL		AMOUNT OF INSURANCE IN FORCE	
		1859	1908	1859	1908	1859	1908
17	36 Life .....	\$ 26,465,955.34	\$3,204,554,466.52	.....	\$2,978,115,623.31	\$ 149,809,752	\$13,086,307,263
172	168 Fire .....	1 57,603,498.01	465,127,824.36	.....	328,140,038.30	1,585,880,038	37,438,783,161
14	18 Marine .....	20,932,067.30	23,862,412.71	\$8,972,477.24	15,436,725.54	.....	342,782,063
50	30 Casualty .....	.....	103,742,451.59	.....	54,450,207.17	.....	.....
	9 Title and Mortgage	.....	.....	.....	.....	.....	.....
	Guarantee .....	.....	41,825,580.37	.....	13,552,313.03	.....	.....
34	Assessment Life and	.....	.....	.....	.....	.....	.....
	Casualty .....	.....	15,097,456.80	.....	13,169,007.98	.....	778,938,807
70	Fraternal .....	.....	76,715,407.68	.....	9,871,522.66	.....	5,446,469,989
6	Live Stock .....	.....	2,076.16	.....	3,044.15	.....	117,043
17	Lloyds .....	.....	6,257,733.43	.....	3,100,062.26	.....	161,114,331
	Town and County	.....	.....	.....	.....	.....	.....
	Co-operative:	.....	.....	.....	.....	.....	.....
43	4 Advance premium	.....	701,764.93	.....	138,645.79	.....	151,305,964
53	5 Town .....	.....	.....	.....	.....	.....	47,655,632
21	5 Grange .....	.....	.....	.....	.....	.....	97,794,061
29	5 County assessment	.....	.....	.....	.....	.....	139,895,032
	Totals .....	\$105,001,520.65	\$3,939,887,174.55	\$8,972,477.24	\$3,415,977,190.19	\$1,735,689,790	\$57,691,163,246

<sup>1</sup> Includes \$4,591,181.99 premium notes. <sup>2</sup> Do not report insurance in force. <sup>3</sup> Includes fidelity, surety and credit. <sup>4</sup> Figures are for part of year 1909. <sup>5</sup> Assets and liabilities for town, grange and county assessment companies not available. Amount of insurance in force is for 1908.

On an examination of the above table it will be seen that the liabilities of life companies are not stated, the policies of those companies not having been valued by the Department until about 1874, and as a consequence, no reserve liability was set up in the annual statements, the full amount of all insurance in force at the end of the year, 1859, being carried as a liability, making their apparent liabilities largely in excess of their assets and destroying all value for the purpose of comparison with the 1908 figures. It was also found impossible to include in the table the liabilities and insurance in force of marine companies for 1859, as in a number of instances they were not shown in the statements. There were no title, casualty, fraternal or assessment life companies or associations reporting to the Department in 1859.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

The following table shows the receipts and disbursements of the Department for the fiscal year ending September 20, 1909, the report for 1910 not having appeared at the time when this article was prepared:

## RECEIPTS

Tax on premiums and value of policies collected under Section 33 of the Insurance Law :

Other State fire insurance companies .....	\$71,482.44	
Other State life (premium tax).....	43,617.45	
Other State life (value of policies).....	19,480.16	
Other State casualty.....	22,399.35	
		\$156,979.40

Fees collected under Section 33 of the Insurance Law :

Filing statements.....	\$ 2,701.00	
Filing charters.....	170.00	
Certificates of authority .....	41,278.50	
Licenses to companies .....	1,442.77	
Registration fees .....	121.00	
Occupation fees.....	300.00	
		\$46,013.27
Total receipts, Reciprocal Law.....		\$202,992.67

Tax on premiums collected under Section 34 of the Insurance Law :

Other State marine companies .....	\$46,524.58	
Foreign State marine companies.....	58,214.75	
Foreign casualty companies.....	40,797.22	
Foreign life companies.....	602.19	
		\$146,138.74

Fees collected under other sections of the law:

Licenses to special agents .....	\$5,200.00	
Certificates of authority (foreign companies)	7,478.00	
Filing annual statements (foreign companies)	1,500.00	
Certificates of deposit, powers of attorney, etc.	7,079.00	
Certified copies of papers .....	2,134.90	
Fees, service, summons and complaints ...	506.15	
Corporation certificates .....	110.00	
National Commercial bank (interest) .....	202.66	
Dividend payments.....	9.31	
Postage on insurance reports .....	5.60	
		\$24,225.62
Refund for examinations .....		53,717.37
Total receipts.....		\$427,074.40

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

## DISBURSEMENTS

For salaries and expenses of Superintendent and deputies, salaries of examiners, counsel, actuaries, stenographers and clerks..	\$172,444.34
For temporary services, counsel, appraisers, traveling and other expenses of employees on department business.....	22,933.49
Rent of New York office.....	3,625.01
Office expenses, stationery, printing, etc...	20,000.00
Printing and binding extra reports .....	5,500.00
Expenses of valuation of policies .....	634.25
Extra furnishings for New York office .....	907.25
Total .....	\$226,044.34
Surplus paid into State treasury.....	201,030.06
	<u>\$427,074.40</u>

As has already been stated, the expenses of the Department are paid by the companies and, through this method of maintenance, it has been enabled to turn into the State treasury a large revenue. From its organization, January 12, 1860, to September 20, 1909, the official records exhibit an aggregate of receipts and payments as follows :

Receipts .....	\$7,361,021.56
Payments.....	4,596,483.30
Excess receipts paid into State treasury.....	<u>\$2,764,483.26</u>

During the existence of the Department, a large body of insurance law, administered by it, which may be found in Volume II of the "Annotated Consolidated Laws of the State of New York," edited by Clarence F. Birdseye, Robert C. Cumming and Frank B. Gilbert, has been enacted. It has been placed upon the statute books, from time to time, in accordance with the constant



enlargement of the insurance business and the need for its more rigid inspection and the clearer expression of the rights of both stock and policy-holders. Much of the recent life insurance law is the outcome of the revelations before the Armstrong legislative investigating committee of 1905, of which Charles E. Hughes, subsequently Governor, was the chief counsel. Some of the principal features of the insurance law, as it now stands, not already specified, are as follows :

1. No domestic fire or marine stock insurance corporation may now be organized with a smaller capital stock than \$200,000, fully paid in.

2. No domestic life, health or casualty company may have less than \$100,000 capital, with an additional capital of \$50,000 for every kind of insurance more than one.

3. Securities either held by a company or deposited with the Superintendent must be interest, income bearing or dividend paying.

4. Every insurance company whose assets and credits are not sufficient to reinsure its outstanding risks in a solvent insurance corporation shall be deemed insolvent and may be proceeded against as such.

5. No insurance company may expose itself to any one risk or hazard to an amount exceeding ten per centum of its capital and surplus.

6. Proceedings may be taken against and for the liquidation of insolvent insurance companies at the



instance of the Superintendent who, upon the order of Court for liquidation, shall have power to appoint special deputies and employ counsel to enforce the same.

7. Every holder, for at least one year, of a policy in a domestic life insurance company is entitled, either in person or by proxy, to vote at the election of trustees thereof; explicit directions are laid down for the filing of lists of such policy-holders with the Superintendent, with public liberty for their inspection; it is also made mandatory upon the companies, through their boards, to nominate candidates for trustees and any 100 or more qualified voters of such corporations may also make nominations. The law specifies the method of distributing and counting the ballots, and the Superintendent has power to supervise and direct the methods and procedures of the elections and to make such further needful rules and regulations concerning the same, as his judgment may determine.

8. Limitations are placed upon the amount of business that a life insurance company may transact in any year, as follows: If the total amount of insurance by said corporation in force on the 31st day of December of the preceding year is more than fifty million dollars, and not in excess of one hundred millions, not more than 30 per centum thereof; if more than one hundred million dollars, and not in excess of three hundred million dollars, not more than 25 per centum thereof, or thirty million dollars, whichever is the larger; if more than three hundred million dollars, and not in excess of six hundred million dollars,

not more than 20 per centum thereof, or seventy-five million dollars, whichever is the larger; if more than six hundred million dollars, not more than one hundred and fifty million dollars, or it may increase its new business over the largest amount issued in any one of the three years immediately preceding in the proportion in respect of said amount which the difference between 25 per centum of its net renewal premiums and its total expenses for such preceding year, after deducting from said total expenses certain specified items of commissions, etc., actual investment expenses and taxes on real estate.

Few departments of the State government are invested with larger or more delicate responsibilities than that of insurance, and none has, in the main, been more conscientiously and efficiently conducted. The Superintendents have been men of eminent business ability.

The following is the list of Superintendents from the beginning :

Name	Residence	Appointed
(R) William Barnes.....	Albany.....	January 12, 1860
(D) George W. Miller.....	Rochester.....	February 3, 1870
*(D) George B. Church.....	Albion.....	May 13, 1872
(R) Orlow W. Chapman ....	Binghamton.....	Nov'mb'r 22, 1872
*(R) William Smyth.....	Owego .....	February 1, 1876
(R) John F. Smyth .....	Albany .....	February 16, 1877
(R) Charles G. Fairman ....	Elmira .....	April 15, 1880
(D) John A. McCall, jr.....	Albany .....	April 23, 1883
(D) Robert A. Maxwell ....	Batavia.....	January 14, 1886
(D) James F. Pierce .....	Brooklyn .....	February 11, 1891
(R) Louis F. Payn .....	Chatham .....	February 2, 1897
(R) Francis Hendricks .....	Syracuse.....	January 31, 1900

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\* Deputy and Acting Superintendent.

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence	Appointed
(R) Otto Kelsey.....	Geneseo .....	May 2, 1906
(D) Henry D. Appleton .....	New York ...	January 14, 1909
(R) William H. Hotchkiss .....	Buffalo .....	February 17, 1909

The following is a portion of the Executive force of the office in 1910:

## ALBANY OFFICE

Henry D. Appleton,	First Deputy Superintendent
Thomas F. Behan,	Chief Clerk and Acting Third Deputy Superintendent
Alfred Hurrell	Counsel
John S. Paterson,	Actuary
Catharine Hurcomb,	Private Secretary and Confidential Stenographer
David H. Keefer,	First Assistant Actuary
James E. Cross,	Second Assistant Actuary
John T. Wilkins,	Cashier and Tax Clerk
Edwin M. Cadman,	Assistant Chief Clerk
Thomas W. Meany,	Bookkeeper
George B. Fowler,	General Clerk
Charles S. Crippen,	Statistician
E. C. Willis,	Assistant Statistician

## NEW YORK OFFICE

Charles S. Fowler,	Second Deputy Superintendent
Nelson B. Hadley,	Chief Examiner Life Companies
Charles Hughes,	Chief Examiner Casualty and Miscellaneous Companies
Daniel F. Gordon,	Chief Examiner Fire Companies
Joseph H. Woodward,	Auditor and Assistant Actuary

## CHAPTER XII

# SUPERINTENDENT OF PUBLIC WORKS

By WINSLOW M. MEAD

*Deputy Superintendent 1899-1910*

FROM their very inception the canals of New York State were destined to play an important part, not only commercially and industrially, but politically. Hardly a page of State history could be written covering the events of the last ninety years, doing full justice to such events and exclude the State's waterways. No railway extension or construction was ever attended by a more certain industrial development along its line than followed rapidly upon the completion of the Erie and lateral canals of this State.

These canals marked a natural highway, so that when railway development followed, the engineering corps had their work largely cut out for them. Not only were the canals paralleled with lines of steel, but in every city and hamlet which the canals had either brought into being or whose growth the canals had stimulated, the railway shipping facilities were located as close to the canal structures as physical conditions would permit, thereby giving notice of the fierce and unceasing

competition which was quickly inaugurated and which has been unceasingly maintained.

As original construction of the canal was by commission, so was the maintenance and operation of the canal carried on under Commissioners up to 1878. The number of these Commissioners was constantly changed, until the Constitution of 1846 finally fixed the number of Commissioners at three. Originally there were five Commissioners appointed under the provisions of Chapter 237 of the Laws of 1816, and another was added in 1821. In 1828, the Revised Statutes provided for four Canal Commissioners, two of whom should be "acting" Commissioners; and in 1833 an additional Commissioner was provided for by Chapter 80, and still another in 1836 by Chapter 451. In 1845, under the provisions of Chapter 280 of that year, the number of Commissioners was reduced to four, with a provision that there should not be more than three "acting" Commissioners.

Later, in the following year, Chapter 6 was enacted, providing that the persons "elected Canal Commissioners shall designate how many of their number, not less than two nor more than three, shall be acting Canal Commissioners." The next year the Constitution of 1846 finally fixed the number of Commissioners at three, who should be elected at the general election following the adoption of that Constitution, one of such Commissioners to be elected for a term of one year, one for two years and one for three years, and that thereafter one Commissioner

should be elected each year to hold office for a term of three years. These Commissioners continued in charge of the maintenance and operation of the canals until February 8, 1878, when the first Superintendent of Public Works took office, succeeding to all their powers and duties.

From the first there was maintained a Canal Board, consisting of the Commissioners of the Canal Fund (who were made up of the Lieutenant Governor, Secretary of State, Comptroller, Treasurer and Attorney General), the State Engineer and Surveyor and the Canal Commissioners, the membership of the elected State officers on this board acting, in theory at least, as a balance wheel. The Commissioners of the Canal Fund, who were also in existence, had to do only with the investment of canal funds and were in charge of the canal sinking fund.

The Canal Commissioners from 1846 on for many years came to be in a manner self-perpetuating officials. Generally speaking, they were chosen because of geographical location, the canals being divided into three divisions and, though the statute neither contemplated nor warranted such action, there grew to be a system which had for its basis nothing more than a "gentlemen's agreement," whereby each Commissioner, being assigned by general consent to one of the divisions, became a law unto himself.

The records of the Canal Commissioners show that there were meetings of such Commissioners at infrequent



intervals, but the records of official transactions are brief and almost silent as to the more important executive acts which must have been performed. The Commissioner who lived within the borders of the western division of the canals was supreme upon that division, making all appointments to office, apparently without conference with his fellow Commissioners, caring for all repairs, supervising expenditures on improvements and purchasing supplies with as full authority and as little hindrance as though a Commissioner for the middle and eastern divisions did not exist. The Commissioner for the middle division exercised the same prerogatives upon that division, and the Commissioner assigned to the eastern division did likewise. If complaints were made as to the conduct of one of the Commissioners, the Commissioners for the other divisions turned a deaf ear, and in return were certain of the same treatment in the event of complaints being made as to his or their conduct.

Roughly speaking, the State today, independent of the so-called barge canal, has a canal mileage of 644. In the larger cities and villages, and even in the smaller hamlets and away from such hamlets, structures of all kinds and character have been erected within the blue line or partly so (the blue line being the boundary line between the canal lands and private property), and while the records do not disclose much information as to when most of these structures were erected, the ages of the structures clearly indicate construction prior to 1878. Existing statutes make provision whereby structures may be

erected within the blue line and, to an extent, prescribe conditions. The older statutes were practically silent upon this point, but there is conclusive evidence that valuable land within cities, villages and hamlets, which, if not needed for canal purposes, could have been abandoned as the law provides, and sold for a large price, was given over to private interests for construction and occupancy, either in return for political favors, promises or otherwise, no records being kept but merely verbal consent given, or else the Commissioner and his subordinates standing idly by witnessing the property being taken possession of and built upon, but interfering with such procedure not at all.

While this feature of mismanagement of the canals during the period prior to 1878 has never been touched upon by any of the committees or commissions investigating the subject, not even by the so-called Tilden Commission, it is certain in the end to prove of the greatest detriment to the State's interests, since, if the present canal shall be abandoned upon the completion of the enlarged canal, untold litigation of an expensive character must result before the State can be put in a position to give title and receive adequate return for property which for more than seventy-five years has been used by private interests without compensation to the State. Already, in connection with canal improvement, the State has had a taste of what it must face hereafter where it is desired to make use of its own in connection with the canal enlargement. Where private buildings have projected

within the blue line, it has been difficult and expensive to secure possession of such property for the purposes desired and expensive litigation has been engendered.

In the absence of any record of data bearing on the subject, no statement can be made as to what may have constituted the basis of such transactions where State property was given away without consideration to the State for private use, but in the absence of such information it is a fair conjecture that at least there were valuable political considerations, and this may partially account for the far-reaching political influence which the canals had up to the last quarter of the last century. They made and unmade county, city and State officials and political leaders. Just how they did this is no part of this article, but that the influences above referred to played a very large part in manipulations seems clearly certain, if not capable of actual proof.

It was Samuel J. Tilden, as citizen and later as Governor, who put machinery in motion which resulted in a complete reorganization of the canals, their management and operation. This reorganization did not take effect until after various commissions had examined and reported; nor were the results attained without serious opposition of the then Canal Commissioners and their powerful friends and political allies. Simultaneously with these reforms, there was effected the abandonment of several of the lateral canals which had become useless, or nearly so, including the Genesee Valley, the Chemung and the Chenango canals.

With this revolution of methods of management and control, there followed retrenchment, not only in expenditures for maintenance, but particularly with reference to extensions and extraordinary improvements. The campaign for reform and reorganization resulted in the adoption of a new Constitutional provision, which went into effect about January 1, 1878, which provided for the appointment of a Superintendent of Public Works, who shall be charged with the execution of all laws relating to the repair and navigation of the canals, and also those relating to the construction and improvement of the canals, except so far as the execution of the laws relating to such construction or improvement shall be confided to the State Engineer and Surveyor; that he shall make the rules and regulations for the navigation and use of the canals; and that "he shall perform all the duties of the Canal Commissioners and Board of Canal Commissioners as now declared by law until otherwise provided by the Legislature." This provision of the Constitution relating to the care and management of the canal still exists.

The first Superintendent of Public Works to be appointed and to succeed to the duties, authorities and responsibilities of the Canal Commissioners was Mr. Benjamin S. W. Clark, who took office on February 8, 1878.

As provided by Section 3, Article V of the Constitution, the Superintendent of Public Works is appointed by the Governor, by and with the advice and consent of

the Senate, and holds his office until the end of the term of the Governor by whom he was nominated and until his successor is appointed and qualified. His annual compensation is \$6,000 per annum, and he must give security for the faithful performance of his duties before he assumes his office. In addition to being charged with the execution of all laws relating to the repair and maintenance of the canals, and those relating to the construction and improvement of the canals, excepting such as may be confided by the Legislature to the State Engineer and Surveyor, he makes all rules and regulations governing the navigation of the canals, and expends all moneys appropriated by the Legislature under special acts for special improvements authorized by the Legislature. He is subject to suspension or removal by the Governor whenever, in his judgment, the public interests so require, but in the case of any such removal, the Governor must file a statement of the cause thereof with the Secretary of State and report the removal and its cause to the Legislature.

The Superintendent of Public Works appoints a Deputy Superintendent, who may perform any or all of the duties of the Superintendent except those imposed upon him as a member of the Canal Board and who also must give security for the execution of his duties; and also not to exceed three Assistant Superintendents of Public Works, each in charge of a division of the canals. They, too, must give security for the performance of their duties. The Deputy and Assistant Superintendents are



subject to suspension or removal by the Superintendent of Public Works when in his judgment the public interests so require.

The Superintendent of Public Works also appoints all other persons having to do with the care and management of the canals, excepting those in the department of the State Engineer and Surveyor. He is also a member of the Canal Board and of the Canal Terminal Commission created by Chapter 438 of the Laws of 1909, for the purpose of considering and reporting as to proper terminals for the new barge canal.

Any vacancy in the office of the Superintendent of Public Works may be filled by the Governor, by and with the advice and consent of the Senate; and in case the Senate is not in session, the appointment by the Governor will expire twenty days after the beginning of the next succeeding session of the Senate. The statutes forbid the Superintendent of Public Works to appoint engineers in his department, but do authorize the appointment of a single engineer to act in an advisory capacity.

The provision of the Constitution relating to the authority and duties of the Superintendent of Public Works, which empowers the Legislature to add specifically to such duties, has been very broadly construed by succeeding Legislatures.

While it is not, strictly speaking, a "construction department," Legislatures have generally grown to so regard it, so much so that during the last thirty years millions of dollars appropriated by the Legislature for



improvements entirely divorced from the canal have been expended under the provisions of statutes by the Superintendent of Public Works. Almost every year provision is made for the improvement of rivers, construction of dikes, the clearing up of lakes, construction of locks on rivers, building of dams and other similar work, such work being entrusted to the Superintendent of Public Works and, in many cases, the work being done by departmental forces. This has been the natural course in the absence of a general construction department, and it is likely due somewhat to the suggestion which the title of the office conveys to the average mind, that the Superintendent of Public Works has come to be a clearing-house officer in the matter of improvements suggested or authorized.

At every session hundreds of bills are offered by members in one house or the other of the Legislature, providing for local improvements, and either by consent or as a result of routine such bills have come to be referred by the chairmen of the various committees before whom they may be pending, to the Superintendent of Public Works for formal report. Though the requests accompanying such references are not always specific, by custom the Superintendent of Public Works has adopted a specific form of report, and in all such matters, while not assuming to be the legal adviser of such committees on the point of the State's liability, the reports cover or attempt to cover a very wide field: First, as to the necessity for the work, if any; second, as to the sufficiency of the proposed

appropriation; and third, as to the State's obligation to do the work; and in many cases he has pointed out that not only is there no obligation but that if an appropriation were to be made, this act in itself might, and in some cases surely would, have the effect of creating an obligation against the State for future care and maintenance or liability for damage, in the event of future neglect.

There have been certain specific duties added by the Legislature entirely outside of canal construction, management and operation, such as administering the law relating to inland water navigation, the care and supervision of certain structures, bridges, dams, etc., entirely divorced from the canals and taken over by the State, and he has been given *ex-officio* membership in various boards and commissions.

In the case of the barge canal improvement, authorized by Chapter 147 of the Laws of 1903, which work is now under way, the authority of the Superintendent of Public Works at certain points is made secondary to that of the State Engineer and Surveyor, as it was made secondary, though not generally so regarded, to that official in the improvement authorized by Chapter 79 of the Laws of 1895.

In the present improvement, the State Engineer and Surveyor not only conceives the plans but interprets them, directs the work under contract, estimates for the same and makes inspection, though it is provided that final acceptance must be jointly made by the State Engineer

and Surveyor and Superintendent of Public Works. All contracts, however, are made by the Superintendent of Public Works; all estimates are paid by him; and when work is once under contract no change in plan can be made excepting with the assent and approval of the Superintendent of Public Works.

One other important duty devolving upon the Superintendent of Public Works in connection with this latter improvement is that relating to settlements for land appropriations and damage, the contracts made in settlement by the appraiser appointed by the Governor for such purpose becoming effective only upon their approval by the Superintendent of Public Works and by the Canal Board.

As heretofore referred to, the Superintendent of Public Works is also *ex-officio* a member of the Barge Canal Terminal Commission, created in 1909 for the purpose of making a study of and reporting on proper locations for terminals for the new barge canal and as to the type of such terminals. He is also *ex-officio* a member of the Commission having to do with the regulation of the water power on Black river, he having charge of all expenditures and disbursements made by that Commission in connection with its duties.

Though such result may not be attained in the near future, and never probably without much opposition, ultimately it is believed by those familiar with construction and building works of the State that all construction work of whatever kind and of whatever nature will be

carried on under one head. The title "Superintendent of Public Works" may be changed, but there will be one official akin to the Superintendent of Public Works who shall have charge not only of the repair, maintenance, construction and operation of the canals, but as well will have charge of the construction of roads and highways, of all classes of public buildings such as State Normal schools, armories, prisons, hospitals, reformatories and the like. When these duties are centered in the hands of one responsible head familiar with public construction and building work, many other officials and commissions, now provided for by the Constitution and by statute, will be merely bureau heads under the Superintendent of Public Works. These should include not only the State Engineer and Surveyor, as it was originally contemplated by the Constitution of 1894, but the State Architect, the Superintendent of Public Buildings and many other officials and commissions.

The Superintendent of Public Works for many years while uniformly being of the same political party as the Governor, has usually been a man of the Governor's own selection, without regard to party exigencies or political committee and leadership recommendations. Following this method, if there was a centralization of power and authority as suggested, the Superintendent of Public Works would directly represent the administration, and the administration of the Governor might stand or fall upon the record of the Superintendent of Public Works. Organized along this general plan, duplication of human

machinery, such as engineers, architects, builders, etc., would be eliminated, and there would be not only a wonderful saving in the matter of salaries but there should be building forces of unquestioned efficiency, and departmental work would be inviting as a field for the expert and the competent. But above and beyond all these, it would enable the State to establish repair shops, completely equipped with modern machinery; to own its own patterns and dies, and to execute at short notice emergency work, and all at a minimum cost.

The following is a list of those who have held the office of Superintendent of Public Works since the methods for management of the canals were changed, up to and including January 9, 1911, together with the places of residence of the Superintendents and their terms of service :

Name	Residence	Assumed Office
(D) Benjamin S. W. Clark . . . . .	Sing Sing . . . . .	February 8, 1878
(R) Silas B. Dutcher . . . . .	Brooklyn . . . . .	January 16, 1880
(D) James Shanahan . . . . .	Tribes Hill . . . . .	January 16, 1883
(D) Edward Hannan . . . . .	Troy . . . . .	December 16, 1889
(R) George W. Aldridge . . . . .	Rochester . . . . .	January 2, 1895
(R) John N. Partridge . . . . .	Brooklyn . . . . .	January 16, 1899
(R) Charles S. Boyd . . . . .	New York . . . . .	December 20, 1901
(R) Nicholas V. V. Franchot . . . . .	Olean . . . . .	January 4, 1905
(R) Frederick C. Stevens . . . . .	Attica . . . . .	January 14, 1907
(D) Charles E. Treman . . . . .	Ithaca . . . . .	January 3, 1911

The following is a list of the principal officers of the Department in 1910 :

Superintendent . . . . .	Frederick C. Stevens . . . . .	Attica
Deputy Superintendent . . . . .	Winslow M. Mead . . . . .	Rochester
Ass't Sup't, Eastern Division . . . . .	David H. Lewis . . . . .	Tribes Hill
Ass't Sup't, Middle Division . . . . .	Charles C. Barrett . . . . .	Rochester
Ass't Sup't, Western Division . . . . .	Henry A. Kunze . . . . .	Rochester



## CHAPTER XIII

# STATE PRISONS

BY CORNELIUS V. COLLINS

*Superintendent of Prisons*

THE institutions that are included in what is known as the New York State Prison Department are Sing Sing Prison for men, Auburn Prison for men, Auburn Prison for women, Clinton Prison for men, Matteawan State Hospital for insane criminals and Danemora State Hospital for insane convicts. No industries are assigned to the insane hospitals, and the inmates of these two institutions, with the exception of a small number who can safely be worked upon the land surrounding the hospitals, are engaged in institutional work.

Auburn Prison was first occupied in 1816, and the prominent architectural features of the buildings, as constructed at that time, still remain. This was the first prison in the world to introduce what has been known ever since as the "Auburn System" in the treatment of criminals, and consists of separation in cells at night and congregate work during the day.

Sing Sing Prison was erected in 1825, and until 1848 was known as Mount Pleasant Prison.



Clinton Prison, at Dannemora, was first occupied in 1845. Since that date, however, additional construction has been added and the prison now has a capacity equal to that of either of the others.

The State Prison for Women at Auburn was opened in 1893, and since that time has had an average population of about 100, the present population being 127.

The Matteawan State Hospital for Insane Criminals, at Matteawan, N. Y., was designed to take the place of the New York State Asylum for Insane Criminals, established in 1859 at Auburn, and now has a population of 773.

The Dannemora State Hospital was opened for the reception of patients in 1900, and is used exclusively for the detention and treatment of the convicted insane. It now has a population of 376.

Up to the year 1877, the New York State prisons were managed and controlled by three inspectors, one of whom was elected each year. The two great political parties in the State being about equally divided, the political complexion of this Board of Inspectors changed quite frequently. When the Democrats secured control of the Board, they discharged all Republican officials in the prisons and replaced them with Democrats, and when the Republicans came into power they returned the compliment. The result was that every one, two or three years there was an entirely new set of officers in charge of the prisons. This system could not fail to be most disastrous in results, and after thirty years of this

practice left the Department in a demoralized and chaotic condition.

In 1877, in compliance with a Constitutional amendment adopted in 1876, these inspectors were legislated out of office and a Superintendent of State Prisons was appointed by the Governor, with full authority over the prisons and held responsible for results. At that time, the popular idea was that the prisoners should earn enough money by their labor to support the prisons, and low expenditures was the measure of successful administration. The reformation, mental improvement and even the health of the prisoners were secondary considerations.

In order to meet the demand at that time for large financial returns from the prisoners' labor, the first Superintendent let the labor of practically all the convicts in the prisons to contractors by what is known as the "Contract System"; that is, the Warden furnished a given number of prisoners to each contractor and the State furnished shop room, heat, light and power. The contractor paid from fifty to sixty cents per day for the labor of each convict. The industries in which the men were employed were limited in variety, 900 being at work on the stove industry alone. This system placed the prisoners practically under the control of the contractors, and the products of the prison industries were sold in the open market in unfair competition with free labor.

The present general system of prison administration was made possible by a Constitutional amendment

introduced in the last Constitutional convention in New York State, which went into effect January 1, 1897, and has for its foundation the education of the convicts in trades. In the shops of the three prisons there are now twenty-four different industries. The prisoners are assigned to the labor for which they are best suited and are thoroughly instructed in one or more trades, not alone in the theory but the actual practical work, and become proficient in some branch of industry, so that they may apply the knowledge thus gained when they leave the prison. The products of the prisons can now be sold only to the State or its political divisions, and the injurious effect of competition with free labor is therefore eliminated. It will be seen that under these conditions, while industrial training is recognized as an essential feature, the education, reformation and moral teaching of the individual is of paramount importance.

On November 1, 1905, day schools for the education of the illiterate were established in the prisons, and, under the rules, every person found to be illiterate when received in the prison is compelled to attend school at least one hour each day of the year, except Sundays and holidays, and the result is that for the first time in the history of the New York State prisons a comprehensive school system is now in force, with an average daily attendance of 2,133 men and 36 women, some of whom are upwards of sixty years of age. To show the necessity for these schools and give an idea of the difficulties encountered in conducting them, it is only necessary to

state that more than fifty per cent. of those attending the school at Sing Sing Prison during the last year were foreigners, many of whom were illiterate and could not speak one word of English when they entered the prison.

One of the most progressive steps in the management and control of prisons was the application of the indeterminate sentence and the parole system to inmates of the State prisons, which first became operative to a limited degree in 1901, and has since been extended so that now all first offenders sent to the State prisons must be committed under indeterminate sentences, the minimum and maximum of which are fixed by the Court. In no case can the minimum be less than one year, nor can the maximum be for a period greater than the maximum term fixed by law for the offence of which the prisoner is convicted.

The Board of Parole is composed of the Superintendent of Prisons and two citizens appointed by the Governor. Since the passage of this law, October 1, 1901, up to October 1, 1910, there have been 3,065 paroles granted, and of this number 515, or about 16.6 per cent. of those paroled have violated one or more conditions under which they were released, and of these 237 have been returned to prison. It will, therefore, be seen that the results obtained under the indeterminate law have been most satisfactory and beneficial to the State, inasmuch as 84 per cent. of those receiving these benefits are now living up to its provisions.

During the past ten years there have been many changes in the rules which apply to the governing of convicts after they are received in the prisons of New York State, and the effect of these rules has been to impress upon the minds of the prisoner the fact that an opportunity for reform is still open to him, and that the Court in sending him to prison did not contemplate additional humiliation and degradation. Among these changes are the abolishment of the lock-step and in its place the installation of the free military step; the abolishing of prison stripes in dressing the prisoners; discarding the use of tin plates and pans in the mess hall and substituting in their place cheap white crockery; the lighting of the cells by electric lights in the place of small oil lamps; the proper marking and assigning of underwear to the individual prisoner; compelling all convicts assigned to work in the mess hall, kitchen and bake shop to be free from all contagious, infectious and eruptive diseases; grading and classifying the prison population, based upon their previous prison history; the introduction of honor emblems, to be earned by proper observance of prison rules, and which entitle the possessor to certain additional privileges not otherwise given; the establishment, in 1898, of the prison paper "Star of Hope," which is issued bi-weekly and contains no articles except those composed and furnished by the prisoners (this is the largest prison paper published and the only one made up entirely from articles written by the prison inmates); the employment of a competent



dentist and oculist; the shaving of the men twice each week in the shops and the use of individual cups and lather brushes for this purpose. These changes were made for the purpose of improving the sanitary condition of the prisons, as well as to instill into the minds of the individual proper methods for correct living after leaving the prison.

In 1901, the first systematic effort was made in the New York State Prison Department for the treatment of tuberculosis in the prisons, and in 1902 sufficient appropriation was made by the Legislature to fit up a ward accommodating 43 patients. The results attained were so favorable, that in 1905 further appropriations were made so that accommodations were provided for 107 additional patients, thereby giving a total bed capacity of 150. This hospital now constitutes what is known as the "Clinton Prison Tuberculosis Hospital" and is the first institution of its kind to be established in the world. To demonstrate fully the value of this institution and the wisdom of those responsible for its establishment, it is only necessary to say that from a comparative table taken during a period of ten years, five of which immediately preceded the opening of this hospital and five subsequent to its opening, shows a decrease in the death rate from tuberculosis in the three prisons of 71 per cent. It is the policy of the Department to transfer to this hospital as soon as they are received or develop in prison, all incipient and advanced cases of this dread disease, so that every advantage may



be taken of the climatic conditions of the locality, and apply such treatment as will tend to effect a perfect cure.

The following are the names of those having served as Superintendent of Prisons, and the years of their incumbency :

1877-1882	Louis D. Pillsbury
1882-1887	Isaac V. Baker, jr.
1887-1898	Austin Lathrop
1898	Cornelius V. Collins (present incumbent)

The following are the names of the Wardens of the three prisons in the order of their service:

AUBURN	
1818-1821	William Brittin
1821-1825	Elam Lynds
1825	Richard Goodsell
1826-1829	Gershom Powers
1829-1833	Levi Lewis
1833	G. C. Dunham
1834-1836	Levi Lewis
1836-1838	John Garrow
1838-1839	Elam Lynds
1839	Noyes Palmer
1840	Robert Cook (temporary)
1840-1843	Henry Pohlemus
1843-1845	John Beardsley
1845-1848	Russell Chappel
1848	Abraham Gridley
1849	Henry Underwood
1850	Benjamin Ashby
1851-1854	Levi Lewis
1854-1859	Thomas Kirkpatrick
1859-1864	David B. McNeil
1865	John H. Conklin
1866	Morgan Angsbury
1867-1869	Albert G. Salisbury

OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

AUBURN—Continued

1869-1873	Allen Ross
1873-1876	L. E. Carpenter
1876	Charles F. Durston
1877	Leonard R. Wells
1878-1880	William J. Moses
1880-1882	Frank L. Jones
1882	Lyman Congdon (acting)
1883-1887	John L. Lanehart
1887-1893	Charles F. Durston
1893-1897	James C. Stout
1897-1905	J. Warren Mead
1905	Charles K. Baker (acting)
1905	George W. Benham (present incumbent)

SING SING

1826-1831	Elam Lynds
1831-1841	Robert Wiltse
1841-1843	David L. Seymour
1843-1846	William H. Petit
1846-1848	Hiram P. Rowel
1848	Chauncey Smith
1849-1851	Alfred R. Booth
1851	R. A. Robinson
1852-1854	W. R. Andrews
1854	Munson I. Lockwood
1855	C. Batterman
1856-1862	William Beardsley
1862-1864	G. B. Hubbell
1864	Thomas E. Sutton
1865-1868	S. H. Johnson
1868	D. P. Forrest
1869	Henry C. Nelson
1870-1872	E. McRussell
1872	Henry C. Nelson
1873	G. B. Hubbell
1874-1876	A. Walker
1876	George R. Young
1877	B. S. W. Clark

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

## SING SING—Continued

1878-1880	Charles Davis
1880-1891	A. A. Brush
1891-1893	W. R. Brown
1893	Charles F. Durston
1894-1898	O. V. Sage
1898-1907	Addison Johnson
1907	Jesse D. Frost (present incumbent)

## CLINTON

1845-1848	Ransom Cook
1848	George Throop
1849-1851	Isaac N. Comstock
1851-1855	John L. Barnes
1855	Andrew Hull
1856-1858	Horace Beach
1858	James W. Cundall
1859	Benjamin Squire
1860-1869	John Parkhurst
1869-1872	William C. Rhodes
1872	John Parkhurst
1873-1876	Stephen Moffitt
1876	E. S. Winslow
1876-1878	James C. Shaw
1878	Henry Scripture
1879-1892	Isaiah Fuller
1892-1899	Walter N. Thayer
1899-1901	David F. Dobie
1901-1907	George Deyo
1907	Frank D. Cole (present incumbent)

## CHAPTER XIV

# STATE CHARITIES

BY HOMER FOLKS

*Secretary of State Charities Aid Association*

THE State Board of Charities is the agency through which the State deals with benevolent enterprises.

In 1880, it had eleven members, including one from each judicial district, two additional from New York County, and one additional from Kings County. In its report for the year 1879, the Board speaks of its powers as follows:

"The act of 1867, creating the Board, conferred upon it supervisory powers over the various charitable institutions, with authority to examine and inquire into their management, the methods adopted for the treatment and care of the beneficiaries of the State, and as to the expenditures for benevolent purposes. By subsequent legislation, additional duties regarding the chronic insane and as to State paupers, have been placed upon the Board, and its labors have thus been greatly enlarged."

The powers and duties of the Board have been still further increased from time to time. The institutions subject to the visitation of the Board were grouped in three classes :

1. Institutions established and supported by the State, including asylums for the insane, institutions for the blind, deaf mutes, idiots and juvenile delinquents.

2. Institutions maintained by counties and municipalities, including county and town poorhouses and city almshouses.

3. Institutions controlled and managed by benevolent associations, including orphan asylums, homes for the friendless, hospitals and dispensaries.

The total valuation of the property used for charitable purposes in the State was estimated as \$31,456,390 on October 1, 1880, and the average number of persons in the care of the several classes of institutions during the year was about 46,000.

The official supervision of the State Board of Charities over all charitable institutions has been supplemented in connection with public charitable institutions by the unofficial supervision of the State Charities Aid Association, a large volunteer body of citizens, one of whose objects is the improvement of the condition of the inmates of public institutions, and of the administration of public charity. This Association, organized in 1872 and incorporated in 1880, is empowered by the Legislature to secure the legal appointment of its members as official visitors to public institutions, and is required to report to the State Board of Charities regarding the results of its visits. The volunteer visitors of the Association, located in the various counties, have represented enlightened public sentiment in their localities, have assisted public officials in the performance of their duties, and have influenced public boards to make the necessary appropriations for the improvement of local institutions.

During the first twelve years of its existence, the State Board of Charities had made a careful study of the elements which composed the State's then most populous class of public charitable institutions — the county, city and town poorhouses and almshouses — and having gained an understanding of the problems of public charity, was ready for constructive undertakings for the improvement of the very unsatisfactory conditions then existing. In 1880, there were 6,581 inmates of county poorhouses and 9,765 inmates of city and town almshouses, asylums and hospitals. To a student of the almshouse, it is obvious that an institution, ordinarily of small size, frequently located in the country, superintended by a public officer chosen by popular vote, without special reference to his fitness for the work, cannot provide proper care for a mixed population consisting of the insane, the epileptic and the acutely ill, requiring curative and ameliorative treatment; the feeble-minded and idiotic, requiring custodial care; vagrants and other delinquents, requiring repressive or reformatory treatment, and the respectable aged poor, who should be provided with a comfortable home. In 1875, the State Board of Charities had secured legislation prohibiting the reception and retention of children in almshouses, but the only other classes at this time provided for in separate institutions were feeble-minded children, at the New York Asylum for Idiots, Syracuse; delinquent children, at the Western House of Refuge, Rochester, and the New York House of Refuge, on Randall's Island; blind



children, at the New York Institution for the Blind and the New York State Institution for the Blind; deaf children, at the New York Institution for the Deaf and Dumb; the acute insane, at Utica, Poughkeepsie, Buffalo and Middletown, and the chronic insane at Willard and Binghamton. The average census of these institutions for the year 1880 was 5,138. It will thus be seen that in 1880 less than one-third of the public dependents in public institutions were in State institutions, while two-thirds were in county and city almshouses. The movement towards State care, which has since reversed these proportions, was then in its beginnings.

The policy of the State may be said to be the taking over of the care of those special classes of public dependents for whom local care has proved inadequate. Perhaps the most notable failure of almshouse care was shown in connection with the dependent insane, who between 1880 and 1890 formed nearly a third of the almshouse population. During the decade from 1880 to 1890, the strong movement organized by the State Charities Aid Association, and participated in by prominent citizens and officials, culminated in the enactment of the State care act of 1890, providing for the removal of all the dependent insane from almshouses, and their care and maintenance in State hospitals. Subsequent legislation provided appropriations for the necessary additional buildings on the grounds of existing State hospitals, and for the turning over to the State and the reorganization as State institutions of the county asylums of Monroe,

Kings and New York counties, so that by 1896 every dependent insane person was receiving the benefits of the expert care and treatment furnished by the State hospitals.

This important reform in the methods of caring for the insane relieved the almshouses of a class of inmates particularly difficult to care for and cleared the way for other improvements, such as the gradual removal of other classes unsuitable for almshouse care and treatment and the better classification of those remaining. The development of the various classes of special institutions can be most readily understood by considering the history of the institutions of each class separately.

Until 1880, the only public reformatories were the two for children at Rochester and Randall's Island — both on the even then obsolete congregate plan of construction. The State Board of Charities was at this time urging the establishment of a reformatory for young women, as there were many in almshouses requiring the discipline and training of such an institution, and even more at large in the community. Mrs. Josephine Shaw Lowell was the member of the Board who led the movement for State care for this class. Her efforts and those of her associates were rewarded by the establishment by the Legislature of 1881 of the House of Refuge for Women at Hudson, an institution which was opened for the reception of inmates in 1887. In 1890, a similar institution, the Western House of Refuge for Women, was established at Albion and opened in 1893, thus

relieving the overcrowding of the Hudson institution and furnishing a more convenient place for young women from the western part of the State. About this time a movement began for the establishment of a reformatory nearer New York City, which culminated in 1892 in the creation of the New York State Reformatory for Women at Bedford, which was finally opened in 1901. These institutions were all built largely on the cottage plan and in most respects were adapted to care for inmates from fifteen to thirty years of age, for which they were provided. Soon after the opening of the reformatory at Bedford, Governor Odell criticised the policy of having so many small reformatories for women, small institutions being relatively more expensive to maintain than large ones, and advocated the transfer of one of the three to other uses. The State Charities Aid Association recommended that one in the eastern and one in the western part of the State should be enlarged and retained for women, and that the third should be turned into a reformatory for young girls, who were then cared for in small numbers at the reformatories at Rochester and Randall's Island, which cared for large numbers of boys, and found the presence of the girls complicating and expensive. The desirability of such a change was concurred in by those interested in the institutions affected, and in 1904 the Legislature passed a law prohibiting the future commitment of girls to Rochester and Randall's Island and women to Hudson, and providing for the gradual transfer of the girls to Hudson and the women to Bedford

and Albion. These three institutions now care for about 800 women and girls in buildings on the cottage plan, well adapted to their purposes.

The reformatories for boys at Rochester and Randall's Island, having been built on the congregate plan, were entirely unsuitable for the care of boys in accordance with modern methods. In 1902, the State provided for the acquisition of a new site in the country and for the establishment of a new institution to be known as the State Agricultural and Industrial School; an admirable piece of land in Monroe County was secured and modern buildings on the cottage plan erected. Boys of the same class in the southeastern part of the State were accommodated in even older and poorer buildings than those in Rochester. In 1904, a commission was appointed to secure a site for a new institution in the southeastern part of the State, and in 1909 an excellent site at Yorktown Heights, Westchester County, was secured, and buildings are to be erected to constitute the New York State Training School for Boys, an institution which will supersede the House of Refuge on Randall's Island. With the completion of this institution, the State's provision for the reformatory care of women and children will be established on an excellent system.

In 1880 the so-called New York Asylum for Idiots at Syracuse, with its custodial branch established in 1878 at Newark, was the only provision made by the State for the feeble-minded. The branch at Newark was a few years later established as a separate institution, under

the title of the Newark State Custodial Asylum for Feeble-Minded Women. As these institutions could care for only a small part of the feeble-minded population of public institutions, and made no provision for feeble-minded men, the Legislature established in 1893 another custodial asylum at Rome, which was opened in 1894 for the reception of the unteachable class of feeble-minded, the Syracuse institution being reserved for teachable children, and the Newark institution for the custodial care of feeble-minded women. These institutions have been gradually increased until they now care for about 2,400 feeble-minded persons.

The unfortunate condition of epileptics in almshouses, as also the knowledge that there were large numbers of dependent epileptics in the community wholly or partly supported by charity, aroused the attention of the State Board of Charities and the State Charities Aid Association, which co-operated to secure a special institution for this class. A committee of the State Board of Charities made a careful study of the subject and secured an admirable site for such an institution in Livingston County. The Legislature of 1894 established the institution as the Craig Colony for Epileptics, naming it for a distinguished member of the State Board of Charities, the late Honorable Oscar Craig, who had been especially active in connection with the establishment of the Colony. It was opened for the reception of inmates in 1896 and has gradually grown until it now cares for 1,300 patients. The buildings are on the cottage plan, and patients are



caared for in accordance with the most approved modern methods of care and treatment, with very gratifying results in the number cured or greatly improved.

The institutions for the feeble-minded and epileptic having been established in the central and western parts of the State, necessitated the sending of patients from New York City to so great a distance from their homes that they could rarely be visited by their friends, or have other advantages enjoyed by those living near these institutions. As New York City would normally supply fully one-half the population of State institutions, it was long felt that the interests of this section should be considered by the establishment of one or more State institutions in the southeastern part of the State. A commission was appointed to study the need of the State for additional accommodations for these classes, and in 1907 the Legislature established the Eastern State Custodial Asylum, later named Letchworth Village, in honor of the late Honorable William P. Letchworth, a former officer of the State Board of Charities and a well-known philanthropist. An excellent site for this institution was secured at Theills, Rockland County, where it is hoped that buildings will soon be provided for the accommodation of inmates, and that in the course of the next five years as many as 3,500 feeble-minded and epileptic dependents from the southeastern part of the State may have the benefit of the best methods of custodial and ameliorative care.



The two institutions for the blind existing in 1880, namely, the State Institution for the Blind, at Batavia, and the New York Institution for the Blind, in New York City — the latter a private corporation, in which most of the inmates are supported by public funds — still remain the only institutions of any considerable size for this class.

The six institutions for the deaf existing in 1880 have been supplemented by two additional institutions, one established in 1884 and one in 1889. These eight institutions are all private corporations, but their pupils are largely supported by public charity, those under twelve years old by localities and those over twelve as State pupils. Institutions of this class are so largely educational in character that they can be classed with educational institutions rather than with charitable institutions.

The New York State Soldiers' and Sailors' Home at Bath, opened in 1878, which was established first as a private institution and subsequently turned over to the State, has a capacity for 2,000. Any honorably discharged soldier or sailor who served in the Army or Navy of the United States during the Civil War, who enlisted from the State of New York, or is a resident of the State and who is in needy circumstances, is eligible for admission.

This institution was later supplemented by the establishment in 1894 of an institution at first named the "New York State Home for the Aged Veteran and His

Wife, Veterans' Mothers, Widows, and Army Nurses, Residents of New York." This home was opened in 1897 and its name changed to "New York State Women's Relief Corps Home." It has a capacity for 200 inmates of the classes mentioned above.

These institutions will probably decrease in their population in the course of the next decade, and may ultimately be available for other purposes unless other wars provide inmates to take the place of those now benefitting by the care of the homes.

The Thomas Indian School at Iroquois, Erie County, established as a private institution in 1855 and turned over to the State in 1875, maintains and educates destitute and orphan Indian children from any of the eight reservations in the State. It has accommodations for 160.

In 1900 the State established two institutions of a somewhat different nature from any hitherto existing. The aim of State care for the insane, the feeble-minded, reformatory cases, etc., is to provide better care than is provided by localities for classes already public charges. The aim of the newer institutions is mainly the prevention of dependence through the cure of curable disease.

The State Hospital for the Care of Crippled and Deformed Children was opened towards the close of the year 1900 in leased buildings at Tarrytown. Subsequently, a building and land was purchased by the State at West Haverstraw, where forty-five patients are accommodated. Poor children who are crippled or deformed or suffering from diseases from which they are likely to

become crippled or deformed, are received. The very small size of this institution makes it possible to provide State care for only a fraction of the number of eligible cases in all parts of the State. While this is a class of patients whose care appeals strongly to private charity, their number is so large and the expense of their proper care so great that public charity will probably have to be called on more largely if the growing need is to be met. As the majority of these cases are tubercular, the wide popular interest in the prevention of tuberculosis may result in a diminution of this form of the disease.

The State Hospital for the Treatment of Incipient Pulmonary Tuberculosis, established by law in 1900 and opened in the summer of 1904, shares with the localities from which the patients come the expense of providing curative care and treatment for cases in the early stages of the disease, thus effecting a saving, not only of the life of the patient, but of the cost of his maintenance during the long period of illness that generally precedes death from this disease, as well as the cost of assisting those who may have been dependent upon his earnings. With room for 165 patients, this institution was unable to meet the demands upon it, and the widespread interest in the proper care of this disease resulted in an appropriation by the Legislature of 1909 to double its capacity. The extent of the need of further State care for this class of patients must be decided in the light of the effort now being made by counties and cities and by private philanthropy to establish local institutions for the care of

patients suffering from tuberculosis, and to adopt adequate measures for the detection and prevention of the disease.

The growth of State charitable institutions and the transfer to them of classes of dependents formerly maintained in local institutions has meant better and in the long run more economical treatment of these cases. The custodial care of the almshouse has been replaced in large measure by curative and ameliorative treatment. It is therefore encouraging that the increase in the number of inmates of public charitable institutions is to be found altogether in State rather than local institutions. In 1880, out of a total of 21,484 inmates of public charitable institutions, 16,346 were in local institutions and 5,138 in State institutions; while in 1909, out of a total of 54,558 inmates of State charitable institutions, State hospitals, and county and municipal almshouses and hospitals, 16,720 were in local and 37,838 in State institutions. The population of the local institutions has remained practically stationary during these thirty years.

In this way, the problems of the almshouse have been diminished in importance, while at the same time their solution has been simplified. While almshouses have not in general kept pace with modern movements in institutional administration, they have undoubtedly greatly improved, and many of them are creditable to the cities and counties to which they belong. There still remains more to be done, however, to bring them up to a proper standard of administration than is required in connection with any other class of institutions. The

State Board of Charities, by its regular and frequent inspections, is doing much to secure the adoption of higher standards in connection with the classification of the inmates, the care of the sick, the provision of proper equipment and service and the meeting of other needs.

The opportunity afforded by the revision of the State Constitution in 1894 was taken advantage of to make the State Board of Charities and the State Commission in Lunacy constitutional bodies, and to create a similar body in the State Commission of Prisons, to exercise similar functions in connection with the penal institutions of the State, thus providing a comprehensive system of State supervision for all the charitable, eleemosynary, reformatory and correctional institutions in the State. While this had already been accomplished in part by the Legislature through the creation of the State Board of Charities, in 1867, and the State Commission in Lunacy, in 1889, the State Board of Charities was required by law to inspect the institutions for the insane, thus duplicating the work of the more recently established Lunacy Commission created for this express purpose, while a large number of prisons, jails, and penitentiaries were without State supervisory inspection of any kind. Article 8 of the Revised Constitution substituted for the omission and duplication of work formerly existing, a simple and comprehensive system of State supervision, classifying the institutions into three departments and providing for each department an official State body responsible



for the thorough inspection of the institutions of its own department.

Another important provision of the Revised Constitution was that prohibiting the Legislature from requiring (although it may authorize) the authorities of any county, city, town or village to make payments to any private charitable and correctional institutions. This provision did away with a large amount of very unfortunate special legislation and cleared the way for a better and more intelligent system of public appropriations to private institutions.

A very important section which was added to the Constitution provided that no payments should be made from public funds for any inmate of an institution not received and retained therein pursuant to rules established by the State Board of Charities. It is provided also that such rules shall be subject to the control of the Legislature by general laws. These provisions, covering the maintenance and support of inmates of charitable institutions, paved the way for a thorough reform of the system of public appropriations to private charities, and one of the most important parts of the work of the State Board of Charities since the adoption of the Constitution has been the enforcement of such rules as were then sanctioned. Rules covering the reception and retention of inmates in institutions of various classes; reports and accounts of institutions; submission of plans of buildings and additions, and other matters have been drawn up and from time to time amended. One of the most important and



far-reaching of the rules of the State Board is that providing that no child, unless convicted of a crime, nor any adult person, shall be retained in any private institution as a public charge unless accepted in writing as such by the public official charged with the support and relief of the poor of the county, city, town or village upon which the person is sought to be made a charge, and that all acceptances of a person as a public charge lapse at the end of the year, and if renewed must be based upon the results of an investigation into the circumstances of the person accepted or his or her relatives. This provision for the complete investigation at regular intervals of the circumstances of public dependents in private institutions, especially children, has resulted in a marked decrease in the number of such dependents. In the boroughs of Manhattan and the Bronx, New York City alone, the number of dependent children, which had gradually increased to 17,076 in 1894, decreased to 14,606 in 1902, as a result of investigations carried on in pursuance of these rules, notwithstanding an increase in the general population during these eight years.

The requirement that acceptances of children as public charges shall be based on an investigation into their circumstances, put upon the Superintendents of the Poor and the Commissioners of Charity a burden of responsibility for expert service which was met in the city of New York and in several of the most populous counties by the appointment of special public agents. In a larger number of counties the work is organized and maintained

by local committees of the State Charities Aid Association, which enter into an agreement with the Board of Supervisors of the county in accordance with which the county makes an appropriation towards the cost of the work and the committee undertakes to raise the remainder of the amount required and to employ one or more qualified agents to perform the work.

The revised State Constitution empowered the State Board of Charities "to visit and inspect all institutions, whether State, county, municipal, incorporated or not incorporated, which are of a charitable, eleemosynary, correctional or reformatory character." The New York Society for the Prevention of Cruelty to Children questioned the right of the Board to investigate its work, and as a result of litigation carried on to determine the limitations of the State Board's powers, an opinion was handed down by the Supreme Court in March, 1900, to the effect that the State Board of Charities had the right to visit and inspect only such private institutions as were in receipt of public money. This decision has somewhat limited the work of the Board, and leaves without the protection of State supervision a large number of beneficiaries of such private institutions as are not publicly subsidized. Since 1900, the State Board of Charities has not been able to require reports from institutions not in receipt of public funds, and it has not been possible since then to ascertain how many persons there are in charitable institutions in the State or to secure any complete figures regarding the beneficiaries of private charity.

An important problem in connection with the administration of charity by the State, and one regarding which there is much difference of opinion, is that of the proper function of a central Board. The question whether the relation of a State Board of Charities to State charitable institutions should be a purely supervisory or a partly administrative one is answered in different ways in different States, and sometimes, notably in the case of the State of New York, in different ways in the same State. The State Commission in Lunacy, by controlling the expenditures of the State hospitals through the estimate and joint contract systems and in other ways, is in a large measure responsible for the administration of the State institutions which it supervises. The State Board of Charities, on the other hand, has not sought any considerable extension of administrative powers, taking the view that such powers are in large measure incompatible with those of supervision and criticism. The much larger number and greater relative importance of private charitable institutions under the supervision of the State Board of Charities has been regarded as determining the character of this Board as a supervisory rather than an administrative body.

A central administration of a large number of institutions has, however, certain obvious economic advantages, and with a view to securing these advantages without jeopardizing the value of the State Board, a new office was created by the Legislature of 1900, namely, that of Fiscal Supervisor of State Charities. The powers

and duties of the Fiscal Supervisor in relation to the State charitable institutions are made to supplement those of the State Board of Charities and provide for these institutions, through two bodies, the same central supervision and control provided for the State hospitals by one body. The powers and duties of the Fiscal Supervisor are to visit such State charitable institutions at least twice a year and examine into the conditions of all their property and their financial management and to report annually to the Legislature and semi-annually to the Governor the facts regarding the condition of the property and the financial management of the institutions and estimates of the amounts required for their use. The estimates of expenses of the various institutions in his jurisdiction, which must be submitted to the Fiscal Supervisor in minute detail, may be revised by him either as to the quantity of the supplies or the quality and the estimated cost thereof. The control of the expenditures of the institutions thus vested in the Fiscal Supervisor gives him very substantial control of the administration of all their departments.

The work of the State Board of Charities has grown to enormous proportions. Its twelve members form twenty-six standing committees, and it has a force of officers and employees to assist in the work. The State Charities Law provides that the Board shall aid in securing proper administration of all institutions subject to its supervision, advise the officers of such institutions, approve or disapprove the organization and incorporation of

charitable institutions and societies, investigate the management of all institutions under supervision and see that their sanitary conditions are proper; that suitable industrial, educational and moral training is furnished, and that they are administered in all respects in a way that will be for the welfare of the inmates. The Board is further authorized to establish rules for the reception and retention of inmates, to investigate the condition of the poor who seek public aid and advise measures for their relief, to administer the laws in connection with State, alien and Indian poor, and to collect information in respect to the proper receipts and expenditures of all institutions, societies and associations subject to inspection, the number and condition of their inmates and beneficiaries and the poor receiving public relief. The law empowers the Board to enforce the attendance of witnesses and examine them under oath, and if abuses are found to exist to secure orders for their correction.

The main work of the State Board of Charities is divided into two departments — that of State, alien and Indian poor, and that of inspection. The former maintains supervision over dependent Indians who are legal charges on the State, rather than on its sub-divisions; provides for persons who, though citizens of the State, are not proper charges on any of its sub-divisions, and attends to the transfer or deportation of non-residents. Through this department as many as 1,200 persons have been in a year returned to their homes in other States or countries, thus saving the State the cost of their support.



In this department also is included the supervision of children placed out in family homes by public officials or others. Its most important work is the supervision of all public charitable institutions, including State charitable institutions, county, city and town almshouses and homes, municipal hospitals and lodging houses — over 80 different institutions with over 25,000 inmates. The department of inspection has charge of the visitation of the private charitable institutions, including the licensing and supervision of dispensaries. There are some 550 such institutions and societies with some 50,000 inmates, which are visited by the Board at the present time. Of these 130 are homes for children, with nearly 34,000 inmates, and 150 hospitals for the sick, with nearly 9,000 patients.

The property of charitable institutions and societies under the supervision of the Board on October 1, 1909, amounted to \$123,924,990.25. Their total receipts for the year ending September 30, 1909, amounted to \$31,076,661.50, and their total expenditures to \$27,295,457.29.

In addition to its regular inspections and reports, the State Board of Charities makes numerous special investigations into the conduct of various individual institutions and also into matters of general charitable interest. It makes recommendations to the Legislature and to the public regarding the charitable needs of the State and outlines policies for the development of public and private charity. The Board took the initiative in organizing a State Conference of Charities and Correction,



which—since 1900 has brought together annually those interested in the public and private charities of the State. The Board publishes an annual report, which has grown to three volumes of some 600 pages each. These reports contain extremely important statistics, reports of the various charitable activities of the State and other valuable material arranged in accessible form.

By holding all the institutions of the State up to a high standard; by helping the poorer to a knowledge of the best, and suggesting practical methods of improvement; by discovering and reforming abuses that may grow up, a central supervisory Board can be of incalculable service to the charitable activities of the State, and give confidence to the people that the bequests and gifts of individuals and appropriations from public funds are being properly used for the purposes for which they were intended.

The present members of the State Board of Charities are as follows :

William Rhinelanders Stewart, president.....	New York
Stephen Smith, M. D., vice-president.....	New York
Thomas M. Mulry.....	New York
Joshua M. Van Cott, M. D.....	Brooklyn
Augustus Floyd.....	Moriches
Simon W. Rosendale.....	Albany
Richard L. Hand.....	Elizabethtown
Horace McGuire.....	Rochester
William H. Gratwick.....	Buffalo
Joseph C. Baldwin.....	Mt. Kisco
John W. Hogan.....	Syracuse
Frank A. Fetter.....	Ithaca

## CHAPTER XV

### RAILROAD COMMISSION

THE Railroad Commission was established in 1883 and continued until 1907, when it was abolished and its functions were merged in the Public Service Commissions. It consisted at first of three and later of five Commissioners, appointed by the Governor, by and with the advice and consent of the Senate, who held office for a term of five years. The Commissioners had general supervision of all railroads in the State, as to the manner in which they were maintained and operated with reference to the security and accommodation of the public. The Commissioners investigated all accidents resulting in loss of life or injury to persons, were charged with the supervision of the work of gradually abolishing grade crossings and had the power to examine the books and affairs of any railroad corporation in the State. All such corporations were required to report to the Board and digests thereof were made which, with other information, were annually transmitted to the Legislature. The Commissioners each received an annual salary of \$8,000 which, with their other expenses, was paid by the railroads operated in the State. One of the Commissioners was required to be a practical railroad man; the board employed a secretary,

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

necessary clerks and engineering and electrical experts.  
The following is the list of the Commissioners :

Commissioners	Residence	Appointed
John O'Donnell . . . . .	Lowville . . . . .	January 30, 1883
John D. Kernan . . . . .	Utica . . . . .	January 30, 1883
William E. Rogers . . . . .	Garrisons . . . . .	January 30, 1883
Isaac V. Baker, jr . . . . .	Comstocks . . . . .	May 11, 1887
Michael Rickard . . . . .	Albany . . . . .	November 14, 1887
Samuel A. Beardsley . . . . .	Utica . . . . .	February 1, 1892
Alfred C. Chapin . . . . .	New York . . . . .	March 15, 1892
Ashley W. Cole . . . . .	Brooklyn . . . . .	December 29, 1896
Frank M. Baker . . . . .	Owego . . . . .	December 18, 1896
George W. Dunn . . . . .	Binghamton . . . . .	February 16, 1897
Joseph M. Dickey . . . . .	Newburgh . . . . .	February 2, 1903
George W. Aldridge . . . . .	Rochester . . . . .	June 28, 1905
Henry N. Rockwell . . . . .	Yonkers . . . . .	December 4, 1905

## CHAPTER XVI

# PUBLIC SERVICE COMMISSIONS

BY WILLIAM R. WILLCOX

THE Public Service Commissions law, enacted in 1907, effective July 1, 1907, created two Public Service Commissions — the one for the first district, having jurisdiction in the counties of New York, Kings, Queens and Richmond, which comprise the city of New York, and the one for the second district, with jurisdiction over the remaining counties of the State. Before any exposition is made of the powers and results of these two commissions, a brief statement may be made as to the regulation of public service corporations that existed prior to 1907.

Between 1831, when the first railroad was put into operation in New York, and 1848, railroad corporations were incorporated by special acts of the Legislature and required to file annual reports with the Secretary of State. In 1848, a general law for the organization of railroad companies was passed, which provided that annual reports should be filed with the State Engineer and Surveyor, who, in 1849, was required to publish these reports in tabular form. In 1855, the Legislature, following a recommendation of the then State Engineer and Surveyor,

John T. Clark, created a State Board of Railroad Commissioners, consisting of the State Engineer and Surveyor, one person appointed by the Governor and Senate and one person elected by the boards of directors of the various railroads. Annual reports were thereafter to be made to this Board, which was also given certain duties and powers. In 1856, State Engineer Silas Seymour recommended that the Board be abolished. In 1857, two of the three members of the Board made the same recommendation, and the Legislature complied, with the result that the duty of receiving, tabulating and publishing annual reports of the companies again devolved on the State Engineer. In 1879 and 1880, an investigation of railroad management and finance was made by a legislative committee, headed by A. B. Hepburn, which recommended the creation of a permanent State Board. This was not accomplished, however, until 1882, when an act was passed, taking effect January 1, 1883, which provided for a board of three commissioners to be appointed by the Governor, with the consent of the Senate. In 1905, the membership of the Board was increased from three to five and so continued until the Public Service Commissions law abolished the Board and transferred its duties and powers to the Public Service Commissions.

The Legislature, in 1859, provided for an Inspector of Gas Meters, appointed by the Governor and Senate for five years, at a salary of \$1,500, to be assessed on the companies. In 1890, the salary was fixed at \$2,500,

and in 1893 at \$5,000. The office was finally abolished by the Public Service Commissions law and the duties were transferred to the Commissions.

In 1885 and 1886, legislative committees investigated gas companies in the city of New York, and an act was passed limiting the price of gas to \$1.25, and other legislation was enacted as to the incorporation of gas companies with a view to securing competition. A bill was also passed creating a committee of three members to control the companies in New York City. This was vetoed by Governor Hill, on the ground that the powers were too drastic and that jurisdiction should cover the entire State. He subsequently, in his messages to the Legislature, recommended a State Commission. In 1901, Governor Odell recommended that gas and electric companies be placed under the jurisdiction of the Railroad Commission. Following persistent complaints as to gas and electric rates and service in New York City, the Legislature again appointed a committee to investigate the subject. With Frederick C. Stevens as chairman and Charles E. Hughes as counsel, the committee recommended a reduction in the price of gas and electricity and the creation of a State Commission of Gas and Electricity. A Commission of three members was accordingly created. It was succeeded in 1907 by the present Public Service Commissions.

The law creating these Commissions, originally enacted as Chapter 429 of the Laws of 1907, was re-enacted in 1910 as Chapter 48 of the Consolidated



Laws. At the same time, extensive amendments were made, making more certain the language of the act and increasing the general powers of the Commissions and adding jurisdiction of telephone and telegraph companies throughout the State to the Public Service Commission for the second district. Both Commissions have general jurisdiction of gas and electric companies and of street and railroad corporations ; also of transportation corporations operating in connection with railroads. In addition, the Commission for the first district was given the powers and duties under the rapid transit act exercised prior to July 1, 1907, by the Rapid Transit Commission. The principal provisions of the Public Service Law may be conveniently grouped as follows :

The following affirmative duties are imposed upon common carriers :

1. They must furnish such service and facilities as shall be safe and adequate and in all respects just and reasonable.

2. All charges made or demanded for service rendered shall be just and reasonable.

3. They must file with the Commissions, and keep open for public inspection, schedules showing the rates of fares and charges for the transportation of passengers and property.

4. They must provide switch and sidetrack connections.

5. There must be no special rate, rebates or unjust discrimination.

6. There must be no free ticket, free pass or free transportation of passengers or property, except to railway officers and certain other specified individuals.

7. They must have sufficient and suitable cars for the transportation of freight in earload lots.

8. Railroads and street railroads must have sufficient cars and motive power to meet all requirements for the transportation of passengers and property that may reasonably be anticipated.

In order that the Commission may see that the public is adequately treated, they are given power :

1. To examine into the general condition, capitalization, franchises and management of all common carriers.

2. To examine all books, contracts, records, documents and papers and compel their production.

3. To establish a uniform system of accounts and prescribe the manner in which they shall be kept.

4. To prescribe the form of periodic reports.

5. To require reports as to accidents and to investigate the same.

6. To order repairs, improvements and changes in tracks, switches, terminals, motive power or any other property or device, in order to secure adequate service.

7. To order increases in the number of trains, cars or motive power, or changes in the time of starting trains or cars.

8. To investigate as to any act done or omitted to be done in violation of law or of any order of the Commission.

9. To fix maximum rates that may be charged and fix through routes and joint rates.

10. To entertain complaints by aggrieved persons and, after hearings thereon, to order the carriers to make such changes as will remove the cause of complaint.

Similar powers are given to the Commission with respect to gas and electric companies, with the additional power to test gas and electric meters.

In order that the franchises and capitalization of public service corporations may be properly controlled, the act provides for the approval of the proper Commission, for example :

1. A certificate from the Commission is required before a railroad or street railroad or gas or electric company may begin new construction or the exercise of a franchise not theretofore exercised.

2. A franchise to own or operate a railroad or street railroad, or a gas or electric company, cannot be transferred or assigned without the approval of the Commission, nor is a contract relating thereto valid without the approval of the Commission.

3. Stocks, bonds, notes or other evidences of indebtedness of common carriers, or of gas and electric companies for a longer period than twelve months may not be issued without the approval of the proper Commission.

4. A railroad or street railroad company may not acquire any of the stock of a similar corporation without the consent of the Commission, nor may any stock corporation hold more than ten per cent. of the stock of any

public service corporation without the consent of the Commission.

5. A merger or consolidation of existing companies can be made only with the approval of the Commission, and even then there must be no capitalization of the merger itself.

The conclusions of the Commissions as to matters affecting companies are expressed in orders to the companies. Failure to comply with an order or with the provisions of the law subjects the companies to drastic penalties. Each day's violation constitutes a separate offense, and if the violator be a common carrier, the penalty is \$5,000; if other than a common carrier, \$1,000. Every individual who aids or abets any violation of an order of the Commission, or who fails to obey or aids or abets any corporation in its failure to obey, is guilty of a misdemeanor. In addition, the Commission may commence in the Courts an action to secure a mandamus or an injunction, and as to any actions to which a Commission is a party, precedence is given over all cases on the calendars, except election cases.

In addition to the above supervisory powers there were transferred to the Commission for the first district the important powers and duties of the former Rapid Transit Commission under the rapid transit act. These are :

1. To grant certain classes of franchises, such as those now being exercised by the Pennsylvania Railroad and the McAdoo Companies, and

2. Subject to the approval of the Board of Estimate and Apportionment of the city, to lay out municipal rapid transit routes, prepare plans, obtain contractors, supervise construction and secure operators for such routes or under certain contingencies to operate them directly.

It will thus be seen that the Commission for the first district has the legal power to secure additional transit facilities for a given section of the city in two ways. It may require existing private companies to increase their facilities or it may provide a city-owned rapid transit line operated either by a private company or by the Commission as agent of the city.

The Commission for the second district has exclusive jurisdiction as to telephone and telegraph companies and the Commission for the first district as to rapid transit in New York City. The above enumerated provisions as to other public services are identical. As a matter of practice, however, the work of the second district Commission is confined more largely to questions arising as to steam railroads and their relations to shippers and as to issuance of securities by the many small companies scattered throughout the State. The work of the first district Commission relates chiefly to questions of urban passenger travel, including the securing of safe and adequate equipment and service and the construction of additional rapid transit lines.

In 1907, the condition of the street surface lines, particularly in New York County, was deplorable. The equipment was in very bad condition and apparently no



attention was given to the furnishing of proper service. The attention of the persons in control of the system had evidently been confined chiefly to the marketing of securities, with the result that the street car traffic was grossly overcapitalized. The Commission had to deal with conditions as they were found and, so far as possible, has insisted that equipment be put in proper condition and that service up to the physical maximum be furnished. Under orders and directions of the Commission, all of the cars used in surface transportation have been completely overhauled and put in proper operating condition, which in itself increased their efficiency to a very great extent. In addition, the Commission regarded the installation of safety devices as an essential, in view of the fact that on all transportation lines within New York City an average of about 600 persons were killed annually. To make sure that the best devices were installed, the Commission in the summer and fall of 1908 held tests of fenders and wheel-guards, open to all manufacturers, and followed this by an order to the surface companies requiring them to install fenders or wheel-guards of types approved by the Commission. During the year 1909 such devices were installed, and the number of persons killed on street car lines alone fell from 248 in 1908 to 161 in 1909.

The grade crossings of streets and steam railroad tracks in New York City number 433. At these, in three years, from 1907 to 1910, nearly 100 persons were killed. The Commission has caused the companies to



install gates and watchmen at a large number of these, and has under way proceedings providing for the elimination of the worst ones. Under the existing law, however, this is a slow process, for 25 per cent. of the expense is to be paid by the State, 25 per cent. by the city and 50 per cent. by the company, and determinations cannot be made unless the State has made an appropriation. In 1910, the Legislature appropriated \$200,000 for use in Queens County, and determinations have been made as to a series of crossings which have used up this appropriation. An appropriation of \$50,000 was made for Richmond County and a proceeding under way will exhaust this appropriation. The Commission for the first district has asked the Legislature of 1911 to appropriate \$600,000 for use in the elimination of grade crossings.

It is not possible in a summary as brief as this to attempt to detail the improvements secured from the public service corporations. The capitalization of such companies in New York City is as follows :

The total gross capitalization of street railways (see note) is.....	\$ 733,635,000
The total gross capitalization of steam railroads (Staten Island) is .....	12,700,000
The total gross capitalization of gas companies is ..	210,883,000
The total gross capitalization of electric (including electrical subway) companies is.....	163,216,000
The total gross capitalization of gas-electric com- panies is.....	5,424,000
	<u>\$1,125,858,000</u>

NOTE — Owing to inter-company holdings, certain securities are virtually duplicated, but these figures purport to give only the amount of securities issued and not formally retired.

The number of passengers in New York City, showing an enormous average increase, and increases in rides per capita since consolidation follow:

Year	Population	Fare Passengers	Rides per Capita
1898	3,251,244	741,329,885	228.0
1899	3,344,223	773,351,232	231.2
1900	3,437,202	846,353,058	246.2
1901	3,549,843	881,344,801	248.2
1902	3,662,483	938,989,964	256.3
1903	3,775,123	1,000,767,483	265.0
1904	3,887,763	1,065,984,910	274.1
1905	4,000,403	1,130,982,696	282.7
1906	4,153,699	1,251,841,175	301.3
1907	4,306,995	1,315,381,388	305.4
1908	4,460,291	1,358,000,407	304.4
1909	4,613,587	1,402,417,642	303.9
1910	4,766,883	1,530,000,000	320.9

The total operating revenue of street railways in 1910 was \$79,420,911; of gas companies, \$34,951,737, and electric companies, \$23,642,816.

Under the provisions of the act as to approval of securities, the total amount of securities for which approval of the First District Commission has been asked in the three years and a half ending December 31, 1910, with the results, are :

Total amount of securities applied for . . . . .	\$361,138,940
Amount approved by the Commission . . . . .	82,458,400
Amount disapproved by the Commission . . . . .	208,829,300
Amount withdrawn by the petitioners . . . . .	390,000
Amount pending December 31, 1910 . . . . .	69,461,240

NOTE — The foregoing figures involve a duplication of \$54,916,000, representing the second application of the Third Avenue Railroad Bondholders' Committee, which was made a separate issue.

Up to December 31, 1910, the city of New York had expended \$65,740,437.44 on municipal subways. Of

this, about \$17,000,000 was expended under the direction of the Public Service Commission for the first district, and during the year 1911 \$17,000,000 or \$18,000,000 more will be expended. In addition to this, the Commission, in conjunction with the Board of Estimate and Apportionment of the city, has under consideration additional rapid transit lines which, when decided upon, will cost upwards of \$100,000,000. The preparation of contract and detail plans for this work, together with the supervision of actual construction work, requires a large force of employees. The Commission's average annual expenditure is around \$1,000,000. Between 60 and 70 per cent. of this is each year spent in connection with rapid transit. The remainder is expended in exercising the powers and duties as to supervision of public services.

The present Commissioners are as follows:

*First district* — William R. Willcox, chairman, New York; William McCarroll, New York; Edward M. Bassett, New York; Milo Roy Maltbie, New York; John E. Eustis, New York.

*Second district* — Frank W. Stevens, Jamestown; John B. Olmsted, Buffalo; W. A. Huppuch, Thomson, N. Y.; Martin S. Decker, New Paltz; James E. Sague, New Hamburg.

Thomas Mott Osborne, of Auburn, member of the original commission, second district, resigned, and was succeeded by John N. Carlisle of Watertown, who was succeeded by W. A. Huppuch.

## CHAPTER XVII

### CIVIL SERVICE COMMISSION

THE State Civil Service Commission was established by a law enacted May 4, 1883. It consists of three Commissioners appointed by the Governor, by and with the advice of the Senate, not more than two of whom shall be adherents of the same political party. They can hold no other office or place under the State government. The term of their office is not fixed by statute, each incoming Governor, as a rule, having constituted a new board. The Commissioners each receive a salary of \$3,000 a year and are paid their necessary traveling expenses. The general powers and duties of the Commission are :

1. To prescribe, amend and enforce suitable rules and regulations for carrying into effect the provisions of the law and of Section 9 of Article V of the Constitution.

2. To keep minutes of its proceedings and records of its examinations and other official action.

3. To make investigations and report upon all matters touching the enforcement and effect of the provisions of the law and the rules and regulations prescribed thereunder, concerning the action of any examiner or subordinate of the Commission and any person in the public service, in respect to the execution of the law.

4. To subpoena and require the attendance of witnesses and the production thereby of books and papers pertinent to the investigation and inquiries authorized and to examine them and such public records as it shall require in relation to any matter which it is required to investigate. It may invoke the power of any court of record in the State to compel the attendance of witnesses and the production of books and papers.

5. To make an annual report of its action throughout the year, the rules and regulations and the exceptions thereto in force and the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of the law.

6. To meet in Albany at least once in each month, except August, and to hold such other meetings as the needs of the service may require. A majority of the members of the Commission constitutes a quorum.

The civil service of the State and of each of its civil divisions and cities is divided into the unclassified and the classified service. The unclassified service consists of all elective offices ; all offices filled by election or appointment by the Legislature on joint ballot ; all persons appointed by name in any statute ; all legislative officers and employees ; all offices filled by appointment by the Governor, either upon or without confirmation by the Senate, except officers and employees in the Executive offices ; all election officers, the head or heads of any department of the government, and persons employed in or who seek to enter the public service as superintendents,



principals or teachers in a public school or academy or in a State normal school or college. The classified service comprises all positions not included in the unclassified service. All appointments or employments in the classified service, except those of veterans of the Civil War, are for a probationary term not exceeding the time fixed in the rules.

The Commission, from time to time, makes rules for the classification of the offices, places and employments in the classified service and rules for such civil divisions of the State, except cities, as after due inquiry are found practicable, and for appointments and promotions therein and examinations therefor. Such rules take effect when approved by the Governor. Examinations are held at least once a year in each of the following places: Albany, Amsterdam, Auburn, Binghamton, Buffalo, Dunkirk, Elmira; Geneva, Hornell, Ithaca, Jamestown, Johnstown, Kingston, Lockport, Malone, Middletown, Newburg, New York, Ogdensburg, Olean, Ononta, Oswego, Plattsburg, Poughkeepsie, Rochester, Saratoga, Syracuse, Utica and Watertown. Special provision is made for the classified service in cities by the appointment of a commission therein for the execution of the law under the supervision of the State Commission.

The offices and positions in the classified service of the State or of any civil division thereof for which civil service rules are prescribed are arranged in four classes designated as exempt, competitive, non-competitive, and, in cities, the labor class. In appointments and



promotions in all classes soldiers and sailors of the Civil War are entitled to preference. The Commission is authorized to appoint a chief examiner, a secretary and such other officers, clerks and examiners as it may deem necessary. The seal of the office is the Arms of the State surrounded by the inscription "State of New York — Civil Service Commission."

The record of the Commission, throughout its existence, has been an honorable one and that of its appointees one of diligent service, with due regard to the execution of the law in its integrity, with constantly increasing strictness in the enforcement of the rules and regulations concerning examinations for appointments and promotions with a view to their release from political influences. The following is a list of the Commissioners, chief examiners and secretaries since the law went into effect :

Name	Residence
(R) Andrew D. White.....	Ithaca
Appointed May 4, 1883 — Declined	
(D) Augustus Schoonmaker.....	Kingston
Appointed May 4, 1883 — Resigned June 1, 1887	
(D) Henry A. Richmond.....	Buffalo
Appointed May 4, 1883 — Removed December 28, 1887	
(R) John Jay*.....	New York
Appointed May 23, 1883 — Removed December 28, 1887	
(D) Daniel E. Sickles*.....	New York
Appointed December 28, 1887 — Resigned December 20, 1889	
(R) George H. Treadwell.....	Albany
Appointed December 28, 1887 — Resigned December 16, 1889	
(D) James H. Manning.....	Albany
Appointed December 28, 1887 — Resigned December 20, 1889	
(R) John A. Sleicher.....	Albany
Appointed December 16, 1889 — Resigned November 17, 1892	

\* President

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence
(D) William A. Postle.....	Canton
Appointed December 20, 1889 — Resigned February 14, 1893	
(D) Alexander C. Eustace*.....	Elmira
Appointed December 30, 1889 — Resigned February 14, 1893	
(D) E. Prentiss Bailey*.....	Ulrica
Appointed November 17, 1892 — Resigned January 2, 1895	
(R) Willard D. McKinsly.....	Watertown
Appointed November 17, 1892 — Resigned January 8, 1896	
(D) De Forest Van Vleet.....	Ithaca
Appointed February 14, 1893 — Resigned January 31, 1895	
(R) Willard A. Cobb*.....	Lockport
Appointed January 22, 1895 — Deceased May 20, 1900	
(D) Silas W. Burt*.....	New York
Appointed March 6, 1895 — Removed January 11, 1901	
(R) George P. Lord.....	Dundee
Appointed January 20, 1896 — Resigned January 26, 1899	
(R) Wm. Miller Collier*.....	Auburn
Appointed February 2, 1899 — Resigned June 1, 1903	
(R) Cuthbert W. Pound*.....	Ithaca
Appointed June 12, 1900 — Resigned January 2, 1905	
(D) John E. Kraft.....	Kingston
Appointed January 23, 1901	
(R) Charles F. Milliken*.....	Canandaigua
Appointed June 1, 1903 — Resigned January 16, 1911	
(R) Roscoe C. E. Brown.....	New York
Appointed January 19, 1905 — Resigned January 16, 1911	
(D) Walter C. Burton.....	New York
Appointed January, 1911	
(R) Elek John Ludveigh.....	
Appointed February, 1911	

\* President

## CHIEF EXAMINERS

Silas W. Burt.....	New York
Appointed May 31, 1883 — Resigned July 1, 1885	
Edgar M. Jenkins.....	Schenectady
Appointed July 22, 1885 — Resigned March 1, 1886	
James E. Morrison.....	New York
Appointed April 7, 1886 — Deceased June 14, 1887	
William Potts.....	New York
Appointed June 20, 1887 — Removed December 28, 1887	
John B. Riley.....	Plattsburg
Appointed December 28, 1887 — Resigned February 27, 1893	
Thomas F. Carmody.....	Penn Yan
Appointed February 27, 1893 — Resigned December 31, 1895	

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence
Charles S. Fowler .....	Ithaca
Appointed January 1, 1896 — Resigned March 17, 1909	
Harold N. Saxton .....	New York
Appointed June 1, 1909	

## SECRETARIES

James A. Betts .....	Kingston
Appointed May 31, 1883 — Resigned February 29, 1884	
Clarence B. Angel .....	Schenectady
Appointed March 1, 1884 — Resigned September 1, 1900	
John C. Birdseye .....	Albany
Appointed September 18, 1900	

## CHAPTER XVIII

# STATE COMMISSION IN LUNACY

BY GOODWIN BROWN

THE bill providing for the creation and organization of the State Commission in Lunacy became a law on May 14, 1889, by the signature of Governor David B. Hill.

Previous to the organization of the Commission, there had been a State Commissioner in Lunacy — a visitorial officer, without substantial powers, who made recommendations from time to time, which recommendations he had the power to enforce only by application to the Supreme Court. There had been no attempt to exercise any authoritative supervision of the insane or the wards of the State generally until the late '60's, when the State Board of Charities was organized. Shortly after its organization, the office of State Commissioner in Lunacy was created; such officer was an adjunct of the State Board of Charities. A few years subsequently his office was made independent of the State Board of Charities.

The first State Commissioner in Lunacy was Dr. John Ordronaux. He held the office until the administration of Governor Cornell, when he was succeeded by Dr. Stephen Smith, who in turn was succeeded early in

the administration of Governor David B. Hill by Dr. Samuel Wesley Smyth, who later resigned at the request of Governor Hill.

Up to the time of the creation of the State Commission in Lunacy there had never been any effective supervision of the insane ; such oversight as the State Board of Charities exercised in conjunction with the State Commissioner in Lunacy had been only of the mildest character.

In 1889 a bill was introduced in the Legislature which provided for the creation of the State Commission in Lunacy, with practically plenary power respecting the insane and the control of institutions for the insane, both public and private. This legislation provided for the creation of an office, the employment of a secretary and such clerks and other employees as might be necessary. The act required that the President of the Commission should be a physician who had had at least ten years' experience in the care and treatment of the insane and in the management of institutions for the insane; a reputable lawyer of at least ten years' practice, and a layman of good repute. This statute marked a very great advance in the history of the care and treatment of the insane. Governor Hill had the power of making the first appointments. He selected as President of the Commission Dr. Carlos F. MacDonald, who for many years had been superintendent of the State Asylum for Insane Criminals, and who, previous to that time, had been superintendent of the Binghamton Asylum for the

Chronic Insane and of the Kings County Lunatic Asylum. He had served in various other public capacities relating to the insane since 1870. Moreover, he possessed a wide reputation in the field of psychiatry and was one of the most distinguished alienists in the country at the time he was appointed.

Goodwin Brown had long been an attache of the Governor's office, having charge of the affairs relating to criminals and the extradition of fugitives from justice. Mr. Brown was the second man appointed by Governor Cleveland after he assumed the office of Governor. He was the author of much legislation relating to criminals and had become widely known on account of his activities in those lines.

The Honorable Henry A. Reeves was an ex-member of the Legislature, an ex-member of Congress and a well-known citizen of excellent repute.

The Commission organized in the latter part of May, 1889. It was required, among other things, regularly to visit and inspect all institutions for the insane, both public and private; to adopt such rules and regulations as might be necessary for the proper conduct of the same; and was empowered to revoke the licenses of any private institution for the insane which in its judgment was not properly conducted, and to generally regulate the conduct of such institutions.

In the fall of 1889 the Commission visited all of the State institutions for the insane; all the private institutions, and it also visited the so-called licensed poorhouses



which cared for certain numbers of the so-called incurable insane.

Previous to 1889 there had been several unsuccessful efforts made by various charitable organizations to procure legislation for the removal of all the insane from the poorhouses of the State and to place them in State institutions. This legislation was inefficiently supported — there was no wide public sentiment in its favor. The keepers of the poorhouses were well intrenched in power by reason of patronage and the purchase of supplies, and there seemed at that time to be no hope of effecting a change for many years to come.

The members of the State Commission in Lunacy, as a result of their visitation and inspection of the licensed county poorhouse asylums, which had been licensed by the State Board of Charities, made an exhaustive report on the subject to the Legislature, which met in January, 1890. This report, which attracted wide attention through the medical and secular press, it is generally conceded, gave the death-blow to county care of the insane in the State of New York. Indeed, it was so convincing — and cited such facts and arguments in support of its proposition to remove all of the insane from those institutions and place them under the care of the State — that the Legislature of that year, after a debate which lasted more than seven hours in the Assembly, passed a bill which became known as the “State Care Act.” This act provided that the Commission should proceed at once with the erection of necessary buildings, and when these

were completed, and should be so certified by the Commission, all of the insane in the city, town and county poorhouses of the State should be removed to the State asylums for the insane.

The Legislature of 1891 made the necessary appropriation, upon the recommendation of the Commission, of about \$500,000 for the purpose. The Commission proceeded at once with the erection of the necessary buildings and the work progressed so rapidly that it certified that there would be room for all of the insane in those institutions by the first of October, 1893.

The State care act provided that upon the completion of the necessary buildings, the insane of all the counties of the State, excepting those of New York, Kings and Monroe, should become a State charge, and should be supported directly by appropriation made by the Legislature.

The Legislature of 1893 made the necessary appropriation, amounting to approximately \$1,500,000, and this, together with the income from self-supporting patients, was believed to be sufficient for the purpose. The appropriation also provided that the State Commission in Lunacy should have sole and exclusive supervision over the expenditure of this money, and that no money should be expended by the hospitals except upon monthly estimates submitted by the hospitals, and approved by the Commission. The financial system required for this work, although one of great detail and extent, was prepared in time for the work, so that beginning with the

first of October, 1893, the new system was in full force and effect. The result of this system, from a financial point of view, was far reaching. The Commission, while giving better care in every way for the insane, reduced the expenditures of the hospital, over what had previously been paid, to a sum exceeding \$37 per capita, and this, based on the number of the insane at that time in the State institutions, effected a saving of several hundred thousand dollars.

Shortly after the State care act took effect, the Legislature provided that the insane in the county of Monroe should be turned over to the State. In 1895 the Legislature provided for the care of the insane in Kings County by the State, and in the year 1896 the New York County institutions for the insane were transferred to the State, so that on October 1, 1896, the last vestige of so-called local, town, county or poorhouse care of the insane was forever blotted from the statute books.

The Republican party came into power on the first of January, 1895, with Levi P. Morton as Governor, and an overwhelming majority in both branches of the Legislature. The reforms effected by the State Commission in Lunacy, for the six years preceding, had met with violent opposition on the part of the managers of the various hospitals for the insane and from the local authorities who cared for their insane in poorhouses. This opposition was wholly unavailing.

In 1893, a Constitutional Convention was elected, which sat during the year 1894. This convention also

provided for a still further reform in the administration of the affairs of the insane. It provided that the State Commission in Lunacy should be a constitutional body, and it entirely divorced the State Board of Charities from all control or oversight of the insane which they had shared to the extent of visitorial powers up to the first of January, 1895. The Commission thus was placed beyond the power of the Legislature to modify it.

Governor Morton, in his first message, transmitted to the Legislature, at the beginning of its session in January, 1895, made the most sweeping recommendation in favor of the Commission having the sole and absolute control over the funds provided for the care of the insane — which control should extend not only to the ordinary care and support of the insane, but to the erection of buildings, repairs and improvements — and specifically recommended that a lump sum of money be appropriated for the purpose, which should be disposed of wholly in the discretion of the Commission. The Legislature directly heeded the recommendations of Governor Morton and placed the sole financial control in the hands of the Commission. This great reform resulted in a still greater effectiveness in its work. Previous to that time a system of “log-rolling” had long been indulged in by the managers of the hospitals in regard to appropriations — representatives from various localities obviously securing as much money as possible for buildings in their localities. This had grown to be a great abuse, with the result that in many instances institutions were improperly

erected and were the result of numerous and far-reaching scandals in the management of the institutions for the insane. For the first time in the history of the State a strong and effective supervision was provided for the dependent insane.

From the very inception of State care for the insane, which began with the opening of the New York State Lunatic Asylum in Utica, in 1842, there had been a long series of scandals and corruption in the management of these institutions. There had been frequent legislative investigations and reorganizations. The result of this system of administration not only caused a great loss to the State, but prevented the growth of hospitals for this purpose — it created distrust in the public mind to such an extent that the local system of care was permitted to remain from 1842 down to 1890.

The members of the State Commission in Lunacy, as first organized, were each reappointed, so that the personnel of this body continued unbroken from 1889 down to and inclusive of 1896, thus enabling a strong system of administration to be perfected.

Up to the time of the State Commission in Lunacy, mechanical restraint of the insane had been common. Strong airing courts were provided; cribbed beds in great numbers were used at night; patients were strapped to chairs during the day; beds, chairs and other articles of furniture were fastened to the floors. The institutions as a whole were devoid of adornment—bare walls—with no substantial occupation, amusement or diversion for



patients. During this period of seven years the Commission absolutely abolished mechanical restraint. It decorated the walls of the institutions, hung them with pictures, carpeted the floors; provided workshops, and it provided a stated sum for the amusement of the patients; it improved their dietaries, calling to its aid for that purpose Dr. Austin Flint, the most eminent physiologist of his time. It established the first institute for pathological research of substantial value in the country—which considerably antedated the Carnegie and Rockefeller institutes for medical research. It also provided libraries and introduced oculists and dentists into the institutions for the first time. It recommended the passage of a law for the employment of women physicians. It also changed the names of all the institutions from asylum to hospital, and placed these institutions, so far as was possible, on a strictly hospital basis—thus removing the stigma of insanity and thereby alleviating the distress caused by this stigma to thousands of unfortunate relatives. It also provided for the proper care of the property of lunatics by the easy appointment of committees without the inconvenience and expense of a sheriff's jury. This act, while attacked as unconstitutional, was, after more than fifteen years, unanimously sustained by the Court of Appeals.

Dr. MacDonald, after seven years of successful service, resigned from the Commission to resume private practice, and was succeeded by the late Peter M. Wise, who had formerly been the superintendent of the St.



Lawrence State Hospital. He in turn was succeeded by Dr. Frederick Peterson, who after a short service was succeeded in turn by Dr. William Mabon, who had been superintendent of the Willard and St. Lawrence Hospitals. On his resignation he was succeeded by Dr. Charles W. Pilgrim, who had been superintendent of the Willard and Hudson River State Hospitals. On his resignation he was succeeded by Dr. A. W. Ferris, of New York. Goodwin Brown was succeeded by William C. Osborn, a lawyer of New York, who was followed by the Hon. Daniel N. Lockwood, of Buffalo, who was succeeded by Sheldon T. Viele, of Buffalo, who was succeeded by Herbert P. Bissell of Buffalo. The Hon. Henry A. Reeves was succeeded by the Hon. William L. Parkhurst, of Canandaigua, who had been for several terms a member of the State Legislature. He served for the long period of nearly thirteen years. He was succeeded by the Hon. William Carey Sanger.

The State Commission in Lunacy is perhaps the most important organization in the State, viewed from the standpoint of humanity. It has under its jurisdiction at the present time more than 30,000 inmates, approximately 6,000 employees and about 200 medical officers. Its annual expenditures amount to between six and seven millions per year, and during the period of the last ten years, its expenditures have equalled more than one-third of the entire expenditures of the State government.

## CHAPTER XIX

# STATE TAX COMMISSION

BY EDGAR L. MURLIN

*State Executive Department*

A joint committee of the Senate and Assembly of the Legislature of New York, appointed in 1892 to examine and report upon the subject of taxation, in its report to the Legislature of 1893, said:

“The plan of valuation, assessment and collection by local assessors and collectors and boards of supervisors in counties, at present in force, was first adopted by Chapter 133 of the Colonial Laws of 1703 and has since so existed with practically no modification in essential particulars. A reform of the principles of our system was directly attempted by the Commissions of 1861, 1871 and 1881. The last one alone succeeded in any radical innovation, though leaving undisturbed the general rules which had so long prevailed, but succeeded in securing the adoption of the principle now in such successful operation, for the levy and collection of taxes for State purposes only, and generally referred to as the corporation tax law, and which was followed by the inheritance tax law of 1885, having the same end in view.”

The State Board of Tax Commissioners have succeeded to the duties formerly exercised by the State Assessors, and also have had a duty of great importance imposed upon them by the special franchise act of 1899. The Tax Commissioners furnish local assessors with such information as may be necessary or proper to aid them in making assessments; prepare forms for reports

and assessment rolls and furnish the same to assessors and other officers at the expense of the State; prepare an annual report to the Legislature and recommend such changes or amendments to the tax laws as they may deem advisable, and investigate and examine from time to time as to the methods of assessment within the State. Two or more of the members of the State Board of Tax Commissioners must officially visit every county in the State at least once in two years and inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, "and particularly as to their compliance" with the provisions of the tax law "requiring the assessment of all property not exempt from taxation at its full value."

The Commissioners of the Land Office and the three Tax Commissioners constitute the State Board of Equalization. This Board meets in Albany on the first Tuesday of September in each year, for the purpose of examining and revising the valuations of real and personal property of the several counties as returned to the State Board of Tax Commissioners, and they fix the aggregate amount of assessment for each county, upon which the Comptroller computes the State tax. The Board may increase or diminish the aggregate valuations of real property in any county by adding or deducting such sum as in their opinion may be just and necessary to produce a just relation between the valuations of real property in the State; but in no instance can the members of the Board reduce the valuations of all the counties below the aggregate valuations returned.

The State Board of Tax Commissioners annually fix and determine the valuation of each special franchise subject to assessment in each city, town or tax district. This is one of the greatest and most important of their duties. The tax law says regarding these duties:

After the time fixed for hearing complaints, the Tax Commissioners shall finally determine the valuation of the special franchises and shall file with the clerk of the city or town in which said special franchise is assessed a written statement, duly certified by the secretary of the Board, of the valuation of each special franchise assessed therein as finally fixed and determined by said Board; such statement of valuation shall be filed with the town clerk of the respective towns within thirty days next preceeding the first day of July in each year, and with the clerks of cities of the State within thirty days before the date set opposite the name of each city in the following schedule. In the city of New York such statement shall be filed with the department of taxes and assessment.

The schedule of dates for the filing of assessments of special franchises yearly follow. It is estimated that in the year 1910 settlements of taxes amounting to \$40,000,000 imposed on special franchises were made.

The corporation tax law was the initiatory measure of a new plan of taxation for the support, or partial support, of the State government, and which was, in fact, to lead to the support wholly of the State government by that method and the complete separation, for a period of years, of State from local taxation, leaving each county and city government responsible for its own tax bills except local taxation imposed by mandatory acts of the Legislature. The history of the indirect taxes, their first form and their final form, the amendments and

changes made in them, therefore, is a vital part of the history of State taxation and of the financial administration of the State's affairs from 1880 onward, when the first of the indirect taxation laws, the corporation tax law, was passed. Except for their passage, it is apparent that some of the most beneficent of State reforms, notably the assumption by the State of the care of the indigent insane of the State, previously a burden of its various counties and the counties composing Greater New York, could not have been undertaken without the State's administrators facing a large increase of direct State taxation. The population of the State has steadily increased since 1880, and there has been a corresponding increase in the demands upon the State treasury for money for highways, for schools, for State asylums and hospitals, for improved State prisons and reformatories. The population of the State in 1880 was 5,082,871; in 1890, 5,997,853; in 1900, 7,268,894; in 1895, 8,067,308; and in 1910, 9,113,279. That the State's authorities were enabled by the discovery of new forms of indirect taxation, or by increasing the rate of taxation under existing indirect taxation laws, to meet the yearly increasing demands upon the State treasury in the period from 1880 to 1910 was one of the surprising features of the period.

The effect of the indirect taxes was clearly apparent in the State tax rate, as is shown by the following table containing the aggregate equalized valuation of property, real and personal, the rate of the State tax in mills on each



OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

dollar of valuation and the State tax for all purposes from 1880 to 1908 inclusive:

Year	Aggregate Equalized Valuation	Rate of State Tax in Mills on each Dollar of Valuation	State Tax Levied for all Purposes
1880	\$2,637,869,238	3 1-2	\$9,232,542.33
1881	2,681,257,606	2 1-4	6,032,829.61
1882	2,783,682,567	2 45-100	6,820,022.29
1883	2,872,257,325	3 1-4	9,334,836.31
1884	3,014,591,372	2 23-40	7,762,572.78
1885	3,094,731,457	2 96-100	9,160,405.11
1886	3,224,682,343	2 95-100	9,512,812.91
1887	3,361,128,177	2 7-10	9,075,046.08
1888	3,469,199,945	2 62-100	9,089,303.86
1889	3,567,429,757	3 52-100	12,557,352.74
1890	3,683,653,062	2 34-100	8,619,748.17
1891	3,779,303,746	1 3-8	5,196,666.40
1892	3,931,741,499	1 98-100	7,784,848.16
1893	4,038,058,949	2 58-100	10,418,192.08
1894	4,199,882,058	2 18-100	9,155,742.88
1895	4,292,082,167	3 24-100	13,906,346.23
1896	4,368,712,903	2 69-100	11,751,837.71
1897	4,506,985,694	2 67-100	12,033,651.80
1898	4,898,611,019	2 8-100	10,189,110.93
1899	5,076,396,824	2 49-100	12,640,228.09
1900	5,461,302,752	1 96-100	10,704,153.39
1901	5,686,921,678	1 20-100	6,824,306.01
1902	5,754,400,382	13-100	748,072.50
1903	5,854,500,121	13-100	761,085.02
1904	7,446,476,127	13-100	968,041.90
1905	7,738,165,640	154-1000	1,191,677.51
1906	8,565,379,394		No tax.
1907	9,173,566,245		No tax.
1908	9,666,118,681		No tax.
1909	9,821,620,554		No tax.

The influence of the indirect taxes in reducing and finally abolishing direct State taxation is also shown in the following table :



# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Year	Direct State tax levied for State purposes	Receipts from indirect sources for State purposes
1880	\$9,232,543.33	.....
1881	6,032,826.31	.....
1882	6,820,023.29	.....
1883	9,334,886.31	.....
1884	7,762,572.78	.....
1885	9,160,405.11	.....
1886	9,512,812.91	.....
1887	9,075,046.81	.....
1888	9,089,303.85	.....
1889	12,557,352.74	.....
1890	8,619,748.17	\$3,237,575.31
1891	5,196,666.40	5,593,968.69
1892	7,784,848.16	4,797,209.73
1893	10,418,192.08	5,887,706.55
1894	9,600,231.79	4,817,250.80
1895	13,906,346.22	5,411,654.50
1896	11,751,837.71	9,262,884.89
1897	12,033,651.80	9,204,395.44
1898	10,189,110.93	9,749,688.52
1899	12,640,228.09	10,463,265.71
1900	10,704,153.39	13,226,849.80
1901	6,824,306.01	15,611,498.62
1902	748,072.05	16,051,353.90
1903	761,085.02	22,341,802.97
1904	968,041.89	23,473,046.23
1905	1,191,677.51	23,869,423.44
1906	.....	32,077,393.48
1907	.....	34,474,999.76
1908	.....	33,253,796.17
1909	.....	30,828,532.08

It was in 1880 that the first of the indirect taxes, the corporation tax law, was passed. Speaking of it in his annual report for 1880, submitted to the Legislature of 1881, James W. Wadsworth, then Comptroller of the State, said:

"The Legislature of 1880 inaugurated a system of taxing the corporate property of the State which I believe will lead to the long-needed remodeling of our present tax laws. It is, in part, somewhat in imitation of the system now in vogue in Pennsylvania, but, as will always be the case when part of a complete system is adopted, the result is not entirely satisfactory. As a member of the Ways and Means Committee, in the winter of 1879 I made inquiry into the practical working of the law taxing corporations now in force in Pennsylvania, where the entire State revenue is raised by a tax on corporations, copartnerships, etc., relieving them from local assessment and at the same time relieving the localities from all taxation for State purposes. I became convinced that such a law would not only work admirably in this State, but would eliminate from our tax problem one great difficulty, i. e., the taxation of corporations, leaving the taxation of real estate and the personal property of individuals to be taken up next by the Legislature. But the system was entirely new to most of the members and was considered too radical a change, and the winter passed in vain attempts to patch up the old laws.

\* \* The act (Chapter 542) passed by the Legislature of 1880 made it the duty of the Comptroller to levy and collect, for the use of the State, a certain tax from certain corporations 'incorporated under the laws of this State, or incorporated under the laws of any other State or country and doing business in this State.' \* \*

The amount of tax collected up to October 1, 1880, is \$141,127.03, which has all been paid in under the provisions of Sections 5, 6 and 7."

Comptroller Wadsworth suggested certain amendments to Chapter 542 of the Laws of 1880, which were all adopted by a Tax Commission in 1881 and became a law known as Chapter 361 of the Laws of 1881. In speaking of this law, in his annual report for 1881, Mr. Wadsworth said :

"In enforcing this act, the Department has worked hard and faithfully. Hundreds of corporations have been added to the list of last year and the revenue which will eventually be reached under it was not over-estimated in my last report at \$2,000,000."

Sections 3, 5 and 6 of Chapter 361 of the Laws of 1881 give the amount of the tax levied upon each corporation affected by the law:

*Section 3.* Every corporation, joint stock company or association whatever, now or hereafter incorporated or organized under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country and doing business in this State, except savings banks and institutions for savings, life insurance companies, banks and foreign insurance companies and manufacturing corporations carrying on manufacture within this State, which exception shall not be taken to include gas companies or trust companies, shall be subject to and pay a tax, as a tax upon its corporate franchise, or business, into the treasury of the State annually, to be computed as follows: If the dividend or dividends made or declared by such corporation, joint stock company or association, during any year ending with the first day of November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividends so made or declared; or if no dividend is made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of one and one-half mills upon each dollar of a valuation of the said capital stock made in accordance with the provisions of the first section of this act; and in case any such corporation, joint stock company or association shall have more than one kind of capital stock, as, for instance, common and preferred stock, and upon one of said stocks a dividend or dividends amounting to six or more than six per centum upon the par value thereof has been made or declared and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amount to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter mill for each one per centum of dividend made or declared upon the capital stock, upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and, in addition thereto, tax shall be charged at the rate of one and one-half mills upon each dollar of a valuation, made

also in accordance with the provisions of this act, of the capital stock, upon which no dividend was made or declared; or upon the par value of which the dividend or dividends made or declared did not amount to six per centum.

*Section 5.* Hereafter it shall be the duty of the president, secretary or other proper officer of every insurance company and every association organized or incorporated by or under any law of this State, and of every person or partnership doing an insurance business in this State (except life insurance companies and purely mutual beneficial associations, whose fund for the benefit of members, their families, or heirs, is made up entirely of contributions of their members and the accumulated interest thereon) to make report in writing to the Comptroller annually, upon the first day of August in each year, after the first day of August, eighteen hundred and eighty-one, setting forth the entire amount of premiums received on business done in this State by such company or association, person or partnership during the year ending with the preceding thirtieth day of June, whether the said premiums were in money or in the form of notes, credits or other substitute for money; and every such company, association, person or partnership shall pay into the State treasury, at the date aforesaid, a tax, as a tax on its corporate franchise or business at the rate of eight-tenths of one per centum upon the gross amount of said premiums. And every company or association organized under the laws of any other State or country, and every person or partnership doing an insurance business in this State, except as aforesaid, shall pay into the treasury on the first day of August in each year a tax at the rate of eight-tenths of one per centum on their gross premiums received by them on business transacted in this State during the year ending with the preceding thirtieth day of June, whether the said premiums were in money or in the form of notes, credits, or any other substitute for money; and every such company, association, person, partnership or the agents and officers thereof in this State shall make report in writing annually to the Comptroller, upon the first day of August in each year, setting forth the entire amount of premiums received during the period aforesaid. Provided that the reports above required shall be made under oath or affirmation, and that it shall be the duty of the Comptroller of the State to add ten per centum to the account of any



company, association, person or partnership which shall neglect or refuse for a period of thirty days to make the said report or to pay into the State treasury the tax imposed by this section. And it shall also be the duty of the president, secretary or other proper officer of each and every insurance company, association, partnership and of every person liable to be taxed under this section to make a report in writing to the Comptroller on the first day of August, eighteen hundred and eighty-one, under oath or affirmation, of the entire amount of premiums received on business done in this State during the six months ending with the preceding thirtieth day of June, and to pay a tax at the rate of eight-tenths of one per centum thereon. And it shall be the duty of the Comptroller of the State to add ten per centum to the account of any company, association, person, or partnership which shall neglect or refuse for a period of thirty days to make said report, or to pay into the State treasury the tax imposed.

*Section 6.* In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company and every other corporation, joint stock company or association now or hereafter incorporated or organized by or under any law of this State, or now or hereafter incorporated or organized by or under the laws of any other State or country and doing business in this State, and owning, operating or leasing to or from another corporation, joint stock company or association any railroad, canal, steamboat, ferry, express, navigation, pipe line or transportation route or line, or elevated railway, or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company under the laws of this or any other State, and doing business in this State, and every express company or association, palace car or sleeping car company or association incorporated or unincorporated, doing business in this State, shall pay to the State Treasurer for the use of the State, as a tax upon its corporate franchise or business in this State, a tax, at the rate of five-tenths of one per centum upon the gross earnings in this State of said corporation or company or association, for tolls, transportation, telegraph, telephone or express business transacted in this State.

The act also declared that "the corporations, joint stock companies and associations mentioned in this act as taxable shall hereafter be exempt from assessment and taxation for State purposes, except upon their real estate and as herein provided; but they shall in all other respects be liable to assessment and taxation as heretofore." Lastly, the act provided that the taxes imposed by it and the revenue derived therefrom should be applicable to the payment of the ordinary and current expenses of the State.

For the fiscal year ending September 30, 1881, the second year of its operation, the receipts from the corporation tax were \$974,725.16. The income from the tax the third year was still greater, Comptroller Davenport, in his report for the year 1882, saying:

"The amount realized from taxes under Chapter 542, Laws of 1880, as amended by Chapter 361, Laws of 1881, during the fiscal year ending September 30, 1882, was \$1,539,684.27, being \$564,959.11 more than the receipts of the previous year. This is a gratifying increase, and I believe that the predictions of the advocates of this law, that the revenue under it would reach \$2,000,000, will within the next two years be fulfilled."

The State's income from the corporation tax law, as predicted, reached nearly \$2,000,000 in the fiscal year ending September 30, 1883, attaining the sum of \$1,935,-179.31, this being \$395,495.04 more than in the previous fiscal year.

The report of the State Comptroller for the year 1902 says: "Corporation taxes. During the last fiscal year there was collected by this Department on account



of this tax the sum of \$6,226,183.18, which is exclusive of the organization tax." Two years previously, in 1900, only \$2,624,508.05 had been collected. The Comptroller continues :

"Of this amount (\$6,226,183.18) practically 50 per cent. was the result of the legislation of 1901, which increased the tax upon the capital stock of foreign corporations employed in the State, upon the capital, surplus and undivided earnings of trust companies and upon the gross premiums of insurance companies received on business done in the State, and imposed a slight tax on the surplus and undivided earnings of savings banks."

The record of the corporation tax law by years is as follows :

Year	Amount	Year	Amount
1880	\$ 141,127.03	1896	\$2,165,610.12
1881	974,725.16	1897	2,259,646.49
1882	1,539,684.27	1898	2,162,434.31
1883	1,935,179.31	1899	2,266,650.40
1884	1,603,612.75	1900	2,624,508.05
1885	1,673,879.09	1901	4,966,680.93
1886	1,376,061.46	1902	6,226,183.18
1887	1,239,864.14	1903	6,808,809.70
1888	993,677.83	1904	7,033,196.09
1889	1,172,599.73	1905	6,620,315.84
1890	1,158,978.41	1906	7,832,842.86
1891	1,350,338.58	1907	8,581,223.44
1892	1,430,719.86	1908	8,937,635.24
1893	1,668,911.62	1909	8,671,920.20
1894	1,599,057.90	1910	9,123,738.60
1895	1,823,039.16		

The second of the indirect taxes which produced a large revenue for the State was that taxing inheritances. Taxation on collateral inheritances was proposed in 1881 by a commission appointed to revise and amend

the laws relating to taxation and assessment, composed of Joshua M. Van Cott, George Geddes, Thaddeus Hait, Alonzo Bradner, Edward W. Foster and John F. Seymour. The same commission also suggested that laws be passed taxing corporate trust mortgage securities, the surplus of savings banks and life insurance companies, bank shares, the sales of stocks, securities, cotton, petroleum and other commodities, and the manufacture and sale of liquor.

The Legislature of 1885 passed the collateral inheritance law. It imposed a tax of five per cent. upon such property as might pass by will or under the laws governing intestacy "to persons other than the parents, descendants and certain other immediate relatives of the deceased." The law specifically exempted from its operation property passing by will or the intestate laws of the State "to or for the use of father, mother, husband, wife, children, brother and sister, and lineal descendants born in lawful wedlock, and the wife or widow of a son and the husband of a daughter, and the societies, corporations and institutions now exempted by law from taxation." The tax imposed was one of \$5 on every hundred dollars of the clear market value of such property. The Court of Appeals declared the act to be constitutional. It has been amended from time to time and now is known as "the tax on transfers of descendants estates." The law has thus far produced the following income for the State :

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Year	Amount	Year	Amount
1886	\$ 84,128.92	1899	\$2,194,612.24
1887	561,716.23	1900	4,334,803.27
1888	736,062.31	1901	4,084,606.87
1889	1,075,692.25	1902	3,303,554.72
1890	1,117,637.70	1903	4,665,735.97
1891	890,267.54	1904	5,428,052.48
1892	1,786,218.47	1905	4,627,051.43
1893	3,071,687.09	1906	4,713,311.33
1894	1,688,954.20	1907	5,435,394.97
1895	2,126,894.01	1908	6,605,891.46
1896	1,796,652.00	1909	6,962,615.23
1897	1,829,941.83	1910	8,212,735.61
1898	1,997,210.24		

In 1886, still another indirect tax was added to the roll, namely, the organization tax — Chapter 143 of the Laws of 1886. This imposed a tax of one-eighth of one per cent. for the privilege of organization upon the capital stock of corporations, joint stock companies or associations “hereafter to be incorporated.” The law took effect upon the 16th day of April, 1886, and between that date and the 30th of September the receipts amounted to \$53,600.06. The income from it since it was passed has been as follows :

Year	Amount	Year	Amount
1887	\$201,633.99	1896	\$503,951.56
1888	181,838.27	1897	152,646.34
1889	198,982.34	1898	334,812.74
1890	220,719.94	1899	474,667.65
1891	185,536.58	1900	356,778.61
1892	266,241.13	1901	295,091.22
1893	298,241.37	1902	380,507.11
1894	150,761.99	1903	360,999.92
1895	258,464.60	1904	199,680.16

## OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Year	Amount	Year	Amount
1905	\$354,495.65	1908	\$207,535.49
1906	485,030.60	1909	343,938.99
1907	391,423.18	1910	488,177.76

The State Comptroller's report for 1896 states that "a very fruitful source of income was discovered in the new excise law, which yielded to the treasury \$3,564,-014.98." The money collected by this tax was made payable one-third to the State and two-thirds to the city or town from which it was collected. Under the old excise law \$2,921,268.62 had been collected. The State's one-third share of the receipts, it will be observed, was greater than this. The liquor tax law was first known as Chapter 112 of the Laws of 1896 and had as its title: "An act in relation to the traffic in liquors and for the taxation and regulation of the same and to provide for local option, constituting Chapter 29 of the general laws." It abolished all boards of excise, and imposed upon the business of trafficking in liquors to be drunk upon the premises where sold or drunk an excise tax in cities above 1,500,000 in population, \$800; in a city having a population of less than 1,500,000 but more than 500,000, the sum of \$650; in a city having less than 500,000 but more than 50,000, the sum of \$500; in a city or village having less than 50,000 but more than 10,000, the sum of \$350; in a city or village of less than 10,000 but more than 5,000, the sum of \$300; in a village of less than 5,000 but more than 1,200, the sum of \$200; if in any other place, the sum of \$100. Upon the business of trafficking in liquors in quantities less than five wine gallons, no

part of which was to be drunk upon the premises, there was imposed an excise tax in cities having a population of 1,500,000 of \$500; in cities of less than 1,500,000 but more than 500,000, the sum of \$400; in cities of less than 500,000 but more than 50,000, the sum of \$300; in cities and villages of less than 50,000 but more than 10,000, the sum of \$200; in villages of less than 10,000 but more than 5,000, the sum of \$100; in villages of less than 5,000 but more than 1,200, the sum of \$75; if any other place, the sum of \$50.

In 1903, the State's income from this liquor tax was doubled by an increase in the tax and by the provision that one-half of the revenues resulting from taxes, fines and penalties, less the amount allowed for collecting it, should be paid into the State treasury and the remaining one-half to the town or city in which the revenue was collected, less the amount allowed for collecting it. Where liquor was sold to be drunk upon the premises in a city or borough having a population of 1,500,000, the tax was placed at \$1,200; in a city or borough of less than 1,500,000 but more than 500,000, at \$975; in a city or borough of less than 500,000 but more than 50,000, at \$750; in a city or village of less than 50,000 but more than 10,000, the sum of \$525; in a city or village having a population of less than 10,000 but more than 5,000, the sum of \$450; in a village having a population of less than 5,000 but more than 1,200, the sum of \$300; in any other place, \$150. Upon the business of trafficking in liquors in quantities less than five wine gallons, no part



of which was to be drunk upon the premises, the tax imposed in a city or borough having 1,500,000 population was \$750; in a city or borough having a population of 1,500,000 but more than 500,000, the sum of \$600; in a city or borough having a population of less than 500,000 but more than 50,000, the sum of \$450; in a city or village having a population of less than 50,000 but more than 10,000, the sum of \$300; in a city or village having a population of less than 10,000 but more than 5,000, the sum of \$112.50; and if in any other place, the sum of \$75.

The liquor tax has placed in the State treasury the following sums :

Year	Amount	Year	Amount
1896	\$3,564,374.98	1904	\$9,039,877.18
1897	4,002,938.21	1905	9,163,391.59
1898	4,215,860.92	1906	9,486,500.28
1899	4,231,278.55	1907	9,697,504.24
1900	4,235,870.25	1908	9,359,318.63
1901	4,197,858.72	1909	5,140,524.21
1902	4,221,671.99	1910	9,589,779.19
1903	8,815,147.92		

After long discussion of the subject in a previous Legislature, the Legislature of 1905 amended the tax law by adding to it an article in relation to the taxation of debts secured by mortgage, known as Article XIV. Subject to certain exemptions, such as bonds issued by the State or by the sub-divisions thereof, the act declared:

“ A regular annual tax is hereby imposed on each and every debt and obligation and upon the mortgage securing the same, described in Section 291, except upon mortgages recorded prior to July 1, 1905, unless the mortgage has become taxable under the provisions of Section 314, which tax shall be equal to five mills on each dollar of



the amount of the principal debt or obligation, as the same shall be, at nine o'clock ante-meridian on the first day of July, 1906, and each year thereafter, and shall be due on said first day of July and payable as hereinafter provided."

The mortgage tax law was, however, radically amended after only one year's trial. In his annual message to the Legislature of 1906 Governor Higgins said:

"All tax measures have their vigorous critics. Taken one by one, each may be shown to work hardships and injustice. Such criticisms are not always disingenuous. For example, the mortgage tax law, which is a law to equalize and reduce taxation on mortgages and to prevent tax dodging, is denounced as 'pernicious double taxation.' Obviously those who make this argument seek the exemption of all mortgages from taxation, rather than the restoration of the old law under which taxation of mortgages was not only double in the sense in which that term is used, but also grossly uneven and discriminating and at a higher rate."

When the Legislature subsequently passed an act amending, as already stated, radically, the mortgage tax law, Mr. Higgins approved of it but appended a memorandum, in which he said:

"This bill substitutes a single recording tax of one-half of one per cent. on mortgages for the annual tax of one-half of one per cent. which superseded the general property tax on mortgages imposed prior to July 1, 1905. One-half of the proceeds of the tax goes to the State and one-half to the local subdivisions of the State. Mortgages are property, and like other property should be taxed for the support of the government, general and local. But as taxes on land are shifted to the tenant, taxes on articles of merchandise to the consumer and taxes on transfers of property to the transferee, so the shifting and incidence of taxation, by a law as inexorable as the law of nature, threw upon the borrower the tax on mortgages. A reduction of the taxes on mortgages should reduce the rate of interest on mortgage loans. The annual tax on mortgages imposed by the Act

of 1905 reduced the tax on such mortgages as previously had been taxed. But it has been estimated that more than 80 per cent. of all mortgages were either exempt by law from the general property tax or else successfully evaded taxation; therefore, in the brief year of trial and experiment, the annual mortgage tax, which reached all mortgages, has, through the working of that instinct of self-preservation which controls the business transactions of capital, resulted in raising the rate of interest by an amount equal to the annual tax."

The receipts from the mortgage tax have been as follows :

Year	Amount	Year	Amount
1906	\$ 431,323.17	1909	\$1,844,821.45
1907	2,442,249.78	1910	1,931,848.39
1908	1,666,527.51		

One of the greatest revenue producers of recent years, in the form of an indirect tax, the law taxing transfers of stock, was passed by the Legislature of 1905 and was signed by Governor Higgins on April 19, 1905. It imposed a tax on

" All sales, or agreements to sell, or memoranda of sales, or deliveries or transfers of shares or certificates of stock in any domestic or foreign association, company or corporation made after the first day of June, 1905, whether made upon or shown by the books of the association, company or corporation, or by any assignment in blank, or by any delivery, or by any paper or agreement or memorandum or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock or to secure the future payment of money or the future transfer of any stock on each hundred dollars or face value or fraction thereof, two cents."

The act further declared :

" Adhesive stamps for the purpose of paying the State tax provided for by this article shall be prepared by the State Comptroller, in such form and of such denominations and in such quantities as

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

he may from time to time prescribe, and shall be sold by him to the person or persons desiring to purchase the same; he shall make provision for the sale of such stamps in such places and at such times as in his judgment he may deem necessary."

The law was amended by Chapter 414 of the Laws of 1906 so as to read that the tax was imposed "on each share of one hundred dollars of face value or fraction thereof, two cents."

The tax on transfers of stock has yearly produced the following revenue :

Year	Amonnt	Year	Amount
1905	\$1,226,757.82	1908	\$3,907,373.38
1906	6,631,903.22	1909	5,355,546.16
1907	5,575,986.64	1910	4,635,443.20

The State Assessors from 1883 on to 1896, when the first State Tax Commissioners were appointed, were:

Name	Residence	Appointed
Staley N. Wood.....	Hinsdale .....	April 18, 1883
James L. Williams .....	Poughkeepsie .....	April 18, 1883
John D. Ellis .....	Antwerp.....	April 18, 1883
William H. Wood .....	Poughkeepsie .....	January 10, 1893
John A. Mason .....	New York.....	January 10, 1893
Henry D. Brewster.....	Weedsport.....	January 10, 1893
Martin Heermance .....	Poughkeepsie .....	January 20, 1896
Rollin L. Jenkins .....	Moriah.....	January 20, 1896
Edward L. Adams.....	Elmira .....	January 20, 1896

## STATE TAX COMMISSIONERS

Name	Residence	Appointed
Martin Heermance .....	Poughkeepsie .....	January 20, 1896
Rollin L. Jenkins .....	Moriah.....	January 20, 1896
Edward L. Adams.....	Elmira .....	January 20, 1896
George E. Priest .....	Ithaca .....	April 12, 1899
J. Edgar Leaycraft .....	New York.....	April 12, 1899

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Name	Residence	Appointed
Lester F. Sterns.....	Dunkirk.....	September 28, 1899
William Halpin .....	New York.....	March 3, 1904
Ceylon H. Lewis .....	Syracuse .....	February 22, 1905

## PRESENT BOARD

Name	Residence	Appointed
Egburt E. Woodbury <sup>1</sup> ....	Jamestown .....	January 15, 1906
Frank E. Perley <sup>2</sup> .....	White Plains.....	December 19, 1906
Benjamin E. Hall <sup>3</sup> .....	New York.....	January 17, 1906

<sup>1</sup> Reappointed Jan. 6, 1909.

<sup>2</sup> Reappointed Jan. 1, 1908.

<sup>3</sup> Reappointed May, 1910.



## CHAPTER XX

### MISCELLANEOUS

#### STATE DEPARTMENT OF HEALTH

**T**HE health officer of this State is one of the more important of the various commissioners appointed by the Governor. He is required to be a graduated physician of ten years experience in the actual practice of his profession, as well as skilled in public health and sanitary science. The term of office of the Commissioner first appointed expired on the 31st day of December, 1904, and the term of office of the Commissioner thereafter appointed was fixed at four years, beginning on the first day of January of the year in which he was appointed. The Commissioner of Health receives an annual salary of \$5,000 and his expenses actually and necessarily incurred in the performance of his official duties. He may employ such clerical and other assistants as are necessary for the proper performance of the powers and duties of the Department and fix their compensation within the amount appropriated therefor by the Legislature. He designates, in writing, one of his assistants, who possesses the powers and performs the duties of Commissioner of Health during his absence or inability to act, or during a vacancy in the office. The Commissioner of Health



takes cognizance of the interests of the health and life of the people of the State and of all matters pertaining thereto. He makes inquiries in respect to the causes of disease, especially epidemics, and investigates the source of mortality and the effect of localities, employments and other conditions upon the public health. He obtains, collects and preserves such information relating to his duties as may contribute to the promotion of health or the security of life in the State. He has general supervision of the State system of registration of births, marriages and deaths and prevalent diseases, and regulates the transfer of dead bodies beyond the limits of counties in which deaths occur. The Commissioner of Health has cognizance of the interests of the public health as it relates to the sale of food, drugs, spirituous, fermented and malt liquors and the adulteration thereof. The Governor may require the Commissioner of Health to examine into nuisances, and may declare to be public nuisances matters and things certified to him to be such.

The present Commissioner is Eugene H. Porter, of New York, a leading authority in public health and sanitary science. Dr. Porter was graduated at Cornell University and New York Homeopathic Medical College; has been editor of the North American Journal of Homeopathy a number of years. He was appointed Health Commissioner by Governor Frank W. Higgins in 1885.

DEPARTMENT OF LABOR

The Department of Labor was created by Chapter 9, Laws of 1901. By the law, the offices of Commissioner of Labor Statistics and Factory Inspector and the State Board of Mediation and Arbitration were abolished and the duties and powers of these respectively were lodged in the Department. The chief officer is a Commissioner, who is appointed by the Governor, with the advice and consent of the Senate, at an annual salary of \$3,500. He appoints two deputy commissioners at an annual salary of \$3,500. The Department is divided into four bureaus, as follows: Bureau of Factory Inspection, under the immediate charge of the first deputy commissioner of labor; Bureau of Mediation and Arbitration, under the charge of the second deputy commissioner; Bureau of Labor Statistics, under the charge of the chief statistician, and the Bureau of Mercantile Inspection, under the charge of a chief inspector. The following is a list of the Commissioners of Labor in succession since the Department was organized :

Name	Residence	Appointed
John McMackin .....	New York.....	March 6, 1901
P. Tecumseh Sherman .....	New York.....	May 4, 1905
John Williams .....	Utica .....	October 3, 1907

COMMISSIONER OF AGRICULTURE

Chapter 338, Laws of 1893, provides for the appointment by the Governor (by and with the advice and consent of the Senate) of a Commissioner of Agriculture,

for a term of three years, at an annual salary of \$4,000, and his necessary expenses not to exceed \$500. He may appoint a director of Farmers' Institutes and such clerks and assistant commissioners and employ such clerks, chemists, agents and counsel as he may deem necessary for the proper enforcement of such laws and the proper administration of the department, who shall receive such compensation as may be fixed by him and the necessary expenses. He may also appoint and employ not more than five expert butter and cheese makers, who shall, under his direction, examine and inspect butter and cheese factories, and attend at agricultural fairs, societies and meetings designated by the Commissioner, to impart thereat information as to the best and most improved method of making butter and cheese and improving the quality thereof. The Commissioner of Agriculture, his clerks, assistants, experts, chemists, agents and counsel employed by him shall have full access to all places of business, factories, farms, buildings, carriages, cars and vessels used in the manufacture, sale or transportation within the State of any dairy products, or any imitation thereof, or of any article or product with respect to which any authority is conferred by this chapter on such Commissioner. They may examine and open any package, can or vessel containing, or believed to contain, any article or product which may be manufactured, sold or exposed for sale in violation of law.

The list of Commissioners follows :

Name	Residence	Appointed
Fred C. Schraub .....	Lowville .....	April 19, 1896
Charles A. Wieting .....	Cobleskill.....	April 29, 1896
Raymond A. Pearson .....	Ithaca .....	April 16, 1908

### COMMISSION OF PRISONS

This Commission was constituted under the Laws of 1907, and consists of seven members appointed by the Governor, by and with the consent of the Senate. Their duties are to visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime or detained as witnesses or debtors; to aid in the securing of buildings suitable for such institutions and to investigate the management of such institutions and the conduct of the officials thereof, etc., etc., and to report annually to the Legislature all details of the work. The officers and members of the Commission are as follows :

Charles F. Howard.....	President
Henry Solomon.....	Vice-President
George McLaughlin .....	Secretary
Mrs. Sarah L. Davenport	Edgar A. Newell
Francis C. Huntington	Simon P. Quick
John McNamee	

### DEPARTMENT OF LAND OFFICE

This Commission has the general care and superintendence of all State lands, the superintendence whereof is not vested in some officer or board. The powers and duties of the Commissioners are defined in Chapter 317

of the Laws of 1894. The Commissioners of the Land Office and the State Tax Commissioners constitute the State Board of Equalization. The Commissioners are:

Lieutenant Governor	State Treasurer
Speaker of the Assembly	Attorney General
Secretary of State	State Engineer and Surveyor
Comptroller	

#### COMMISSION OF CANAL FUND

The Commission supervises and manages the canal fund; makes recommendations and reports to the Legislature; makes advances to superintendents of repairs, and may borrow money when authorized. The Commissioners are :

Lieutenant Governor	State Treasurer
Secretary of State	Attorney General
Comptroller	

#### STATE FAIR COMMISSION

This Commission was appointed under the Laws of 1900-8 and consists of seven members, of whom the Lieutenant Governor and the Commissioner of Agriculture are *ex-officio* members. It is the duty of this Commission to hold a State fair at such times as it may deem proper, and to have the general management of said fair with power to appoint a superintendent and such other assistants and employees as it may deem necessary. The present Commissioners are :

Name	Residence
Horace White.....	Syracuse
Raymond A. Pearson .....	Ithaca



## OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Residence
Charles A. Wieting.....	Cobleskill
Abraham E. Perren.....	Buffalo
Ira Sharp.....	Lowville
De Forrest Settle.....	Syracuse
William Pitkin.....	Rochester
Stanton C. Shaver, secretary .....	Syracuse

### STATE COMMISSIONER OF EXCISE

The State Commissioner of Excise, who controls the liquor traffic under a new high license system of increased taxation, came into existence in 1909, when the liquor tax law abolished all local boards of excise then existing in the State. The Commissioner is appointed by the Governor for a term of five years, with the salary of \$7,000. The money collected by the Commissioner on the liquor tax certificates is divided, one-half going to the State and one-half to the city or town in which it is collected.

The Commissioner is authorized to appoint sixty special agents, who are his confidential representatives and act under the direction of the Commissioner.

The Special Deputy Commissioners for the boroughs of Manhattan and the Bronx, Brooklyn, Richmond and Queens, and for the counties of Westchester, Erie, Monroe, Albany, Oneida, Onondaga, Rensselaer and Niagara are paid salaries in lieu of fees and commissions. The county treasurers in all other counties are paid by fees, one-half by the city or town for whose benefit the tax is collected. The tax paid by common carriers, the vehicle



tax paid by bottlers of malt liquors and the penalties on forfeited liquor tax bonds are collected by the State Commissioner and belong to the State.

The present officers are :

Name	Appointed
Mayard N. Clement, Excise Commissioner, Canandagua,	May 2, 1906
Henry A. Soule, deputy, Alleghany .....	June 7, 1906
H. Walter Lee, second deputy, Gouverneur . . . . .	June 7, 1906
Russell Headley and Samuel H. Sailsbury, assistant counsel	

### FOREST, FISH AND GAME COMMISSION

The Governor, by and with the advice and consent of the Senate, appoints a Forest, Fish and Game Commissioner, whose term of office is four years, at an annual salary of \$6,000 and necessary expenses. The Commissioner appoints a deputy at a salary of \$3,000 and necessary expenses. Commissioner and deputy each gives bond in the sum of \$10,000, with sureties approved by the Comptroller. The functions of the Forest Preserve Board, which was merged with the Forest, Fish and Game Commission under this act, are vested in the Commissioner, and the Governor may designate two Commissioners of the Land Office to act with the Forest, Fish and Game Commissioner in acquiring forest lands for the State, with all the powers formerly possessed by the Forest Preserve Board; but no lands can be purchased without the consent of the Governor. The Commissioner has charge of the propagation and distribution of food and game fish and shell fish to supply the waters of the State; of the several hatchery stations from which

the artificially propagated fish are supplied; of the enforcement of the laws for the protection of the fish and game of the State, and of the forest lands, many islands in Lake George and several in the St. Lawrence river; of the lands under water mapped out as oyster beds, and of the granting of franchises for such lands; and of the suppression of forest fires. He reports to the Legislature annually, making such recommendations as he deems proper. He appoints the necessary officials and employes to carry out the provisions of the law and requirements of the office.

The present Commissioner, appointed in February, 1911, is the Hon. Thomas Mott Osborne of Auburn, N. Y.







*Joseph H. Choate*



## CHAPTER XXI

# CONSTITUTIONAL CONVENTION OF 1894

BY THE EDITOR

THE State of New York has ordained four Constitutions — those of 1777, 1821, 1846 and 1894; the third, that of 1846, is one of the most complete expressions of democratic principles and representative government that has ever been formulated. Fundamentally, it is still intact; and it is not probable that in many years it will be changed essentially. It enlarged popular rights; extended the suffrage; restricted powers vested previously in the legislature and in the executive and prescribed an elective judiciary. Its principal reforms are summarized admirably in the address prepared, at the direction of the convention which framed it, by Michael Hoffman, a distinguished jurist and statesman who, among other things, says:

“The delegates have reorganized the legislature, established more limited districts for the election of the members of that body and wholly separated it from the exercise of judicial power. The most important state officers have been made elective by the people of the state; and most of the officers of cities, towns and counties are made elective by the voters of the locality they serve. They have abolished a host of useless offices. They have sought at once to reduce and decentralize the patronage of the executive government. They



have rendered inviolate the funds devoted to education. After repeated failures in the legislature, they have provided a judicial system adequate to the wants of a free people rapidly increasing in arts, culture, commerce and population. \* \* They have modified the power of the legislature, with the direct consent of the people, to amend the Constitution, from time to time, and have secured to the people of the state the right, once in twenty years, to pass directly upon the question whether they will call a convention for the revision of the Constitution.

The organic law of 1846 was ratified at the general election of that year, 221,528 votes being cast in its favor and 92,435 against it. The article repealing the property qualification for colored citizens, being submitted separately, was defeated by 85,306 affirmative to 223,834 negative votes. So thorough was the enunciation of popular rights in the Constitution of 1846 that amendments to and even revision of that instrument have been of an administrative, rather than a basal, character, as already indicated. Between 1846 and 1867, there were but two constitutional amendments of any significance—that of 1854 providing for the more speedy completion of the canals and that of 1865 allowing absent electors in the military service of the United States to vote. In 1858, the proposition for a constitutional convention was rejected by a small majority at the polls and, in 1860, by a considerable majority. Equal suffrage was again denied to colored persons. In 1867, by a vote of 352,854 for and 256,364 against, a convention was called. It consisted of 160 delegates, 32 at large, 16 from each of the leading political parties, and four from the dominant

party in each of the 32 senatorial districts. The convention was, in its majority, largely Republican. It met in Albany, June 4, and, with a recess from September 24 to November 12, adjourned *sine die* February 28, 1868. It was a very able body, both in its majority and minority representation, and its debates were of a high order. It outlined a Constitution, varying in little that was essential from the existing one; but its work was rejected by the people, with the exception of the judiciary article and the continuance of the property qualification for colored citizens, which were approved. It was, as a whole, opposed by Democrats. A number of amendments to the Constitution occurred in ensuing years, through the process provided therein — agreement thereto by two successive legislatures, a new body of senators in the second, and ratification by the people; and Constitutional Commissions to propose amendments were held in 1872 and 1890, respectively, the major portion of those of the former being sanctioned at the polls. The latter was an eminent body of men and the names of its members belong to the period — 1883-1910 — of which this work treats. Although its recommendations failed to be acted upon by the legislature, some of them were subsequently incorporated in the Constitution of 1894. Its membership, by judicial districts, each of the leading political parties being equally represented, was as follows:

## FIRST DISTRICT

Joseph H. Choate  
James C. Carter  
Daniel G. Rollins  
Elliott F. Shepard

William B. Hornblower  
W. Bourke Cockran  
Franklin Bartlett  
Frederick R. Coudert

OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

SECOND DISTRICT

George G. Reynolds	Thomas E. Pearshall
Odle Close	Calvin Frost
Lewis E. Carr	Homer A. Nelson

THIRD DISTRICT

Francis H. Woods	Martin I. Townsend
Timothy F. Bush	J. Newton Fiero

FOURTH DISTRICT

S. Alonzo Kellogg	Leslie W. Russell
Artemas B. Waldo	James M. Whitman

FIFTH DISTRICT

Charles D. Adams	Louis Marshall
Daniel G. Griffin	Maurice L. Wright

SIXTH DISTRICT

Francis R. Gilbert	Douglass Boardman
Albert C. Tennant	Gabriel L. Smith

SEVENTH DISTRICT

George F. Danforth	Thomas Raines
James C. Smith	Michael A. Leary

EIGHTH DISTRICT

Hamilton Ward	Wilson S. Bissell
George Barker	William C. Greene

George F. Danforth was chairman and Walter H. Bunn clerk of the Commission.

By an amendment, adopted in 1874, the suffrage color line was effaced, but this was a mere formality, because the 15th amendment to the federal Constitution, declaring that the rights of citizens to vote shall not be denied or abridged by any state on account of race, color or previous condition of servitude, became operative in 1870.

Meanwhile, agitation in behalf of another Constitutional Convention proceeded, on the option of the people therefor, as the twenty year period approached its expiration. The conviction was general that the great State of New York, with its rapidly augmenting population and its vast and varied interests, needed, not a radical departure from its organic law, but a comprehensive revision of its administrative features and especially a remodeling of its judicial system, a clearer definition of the jurisdiction of municipalities and a constitutional reapportionment of legislative districts. So, when the question of calling a convention was submitted to the people, at the general election in 1886, it was answered by 574,933 votes in the affirmative and 30,766 in the negative — an emphatic expression of the popular will. Eight years elapsed, however, before an enabling act was perfected. Differences of opinion between the Democratic governor, David B. Hill, and Republican legislatures, as to the composition of the convention, caused the delay throughout all the period mentioned. In 1887, a bill introduced in the assembly by Mr. Arnold, providing for 160 delegates — 128 by assembly districts and 32, 16 from each political party, from the state at large — and requiring the convention to meet January 15, 1888, was passed; but it was vetoed by the governor upon the grounds that it postponed the convention one year; was of a partisan character, because there was no representation other than that of the two great parties; delegates were to be chosen at the general, instead of at a special, election; the

Constitution was to be submitted to the people in a presidential year, 1888; and the assembly representation was made upon the state census of 1875, which the governor held was informed with inequalities and injustice. To meet this last objection, an extra session of the legislature was ordered, with the view of providing for an enumeration of the inhabitants, but it framed a measure, not merely for the enumeration, but also for the gathering of statistics on certain specified subjects. This the governor vetoed because, as he claimed, the legislature exceeded its authority in dealing with matters beyond the definite object for which it was summoned. From 1888 until 1891, the legislature continuing Republican and Governor Hill having been re-elected, nothing was accomplished in behalf of the convention. In 1891, the Democrats were in a majority in the assembly, the Republicans retaining control of the senate, but the convention remained in abeyance, although a bill introduced by Charles P. McClelland, of Westchester, a Democrat, providing for a convention of 160 delegates — 128 from assembly districts and 32 at large, 20 of these to be from the majority and 12 from the minority party — passed the assembly but was ignored by the senate. In 1892, Roswell P. Flower, a Democrat, became governor and both houses of the legislature Democratic. In this year, William Sulzer, of New York, a Democrat, introduced a bill for a convention of 160 delegates — 128 by assembly districts and 32 (16 from each party) at large, which was virtually the same as Mr. Arnold's bill of



1887. During its passage, it was amended by empowering the governor to appoint 11 additional delegates, five from labor organizations and three from the Prohibition party. The election of delegates was designated for the second Tuesday of February, 1893. In 1892, an enumeration and an apportionment of legislative districts were both made. In his message of 1893, Governor Flower suggested the postponement of the choice of delegates to the general election in November and expressed doubt as to the constitutionality of the power proposed to be confided in him of appointment of additional delegates. The act of 1892 was, therefore, amended by providing for a convention of 175 members, — 160 by senatorial districts, five from each, and 15 from the state at large, to be voted for in November; and that the convention meet May 8, 1894. Minority representation was not provided for, the general expectation at the time being that the Democrats would succeed in electing the delegates at large. It is understood that Governor Hill, then a United States senator, objected to the exclusion of minority delegates, but was overruled in this by his party associates. This was a reversal of the Republican regulation of 1867, and Republicans, at least, claimed the result as a certain sort of poetic justice, inasmuch as their candidates for delegates at large received an overwhelming majority and they carried 17 of the 32 senatorial districts.

The Convention met in the Assembly Chamber, at the Capitol in Albany, May 8, 1894. The following is



the list of delegates (Republicans in Roman, Democrats in italics):

DELEGATES AT LARGE: Joseph H. Choate, Elihu Root, Edward Lauterbach, Jesse Johnson, Frederick W. Holls, Michael H. Hirschberg, J. Rider Cady, John T. McDonough, John M. Francis, John F. Parkhurst, Commodore P. Vedder, John I. Gilbert, Augustus Frank, William P. Goodelle, Daniel H. McMillan.

FIRST SENATORIAL: Lucius N. Manley, Frederic Storm, Charles L. Phipps, Nicoll Floyd, Nathaniel S. Ackerly.

SECOND SENATORIAL: *Mirabeau Lamar Towns, William H. Cochran, John G. Schumaker, John B. Meycnborg, Almet F. Jenks.*

THIRD SENATORIAL: Stephen B. Jacobs, Henry A. Powell, William H. Allaben, Solomon Galinger, Charles B. Morton.

FOURTH SENATORIAL: Joseph C. Hecker, Frank H. Vogt, William A. Faber, Andrew Frank, Robert M. Johnston.

FIFTH SENATORIAL: *William D. Veeder, William Sullivan, Thomas J. Farrell, William B. Davenport, John Cooney*<sup>1</sup>.

SIXTH SENATORIAL: *James W. Riggs, Eugene A. Curran, George W. Roderick, William M. Mullen, Thomas W. Fitzgerald,* until August 2, when the following contestants were admitted: John C. Kinkel, Charles L. Pashley, William Deterling, J. Lott Nostrand, Charles J. Kurth.

SEVENTH SENATORIAL: *William C. Whitney*<sup>2</sup>, *Wright Holcomb, DeLancey Nicoll, John M. Bowers, Arthur D. Williams.*

EIGHTH SENATORIAL: *John Bigelow, Frank T. Fitzgerald, Leonard A. Giegerich, Elliot Sandford, Morris Tekulsky.*

NINTH SENATORIAL: *Joseph M. Ohmeis, Joseph Koch, Charles Goeller, Aaron Herzberg, Henry D. Hotchkiss.*

TENTH SENATORIAL: *Gideon J. Tucker, Delos McCurdy, Charles H. Truax, William Q. Titus, James W. McLaughlin.*

ELEVENTH SENATORIAL: *Robert E. Deyo, M. Warley Platzek, Francis Forbes, Nelson J. Waterbury*<sup>1</sup>, *William P. Burr.*

<sup>1</sup> Died before taking his seat.

<sup>2</sup> Failed to qualify.

TWELFTH SENATORIAL: *Nelson Smith, William McM. Speer, Jacob Marks, John D. Crimmins, David McClure.*

THIRTEENTH SENATORIAL: *Andrew H. Green, James P. Campbell, Joseph I. Green, Eugene Durnin, Thomas Gilleran.*

FOURTEENTH SENATORIAL: *Charles W. Dayton, Michael J. Mulqueen, John A. Deady, Stephen S. Blake, Chauncey S. Truax.*

FIFTEENTH SENATORIAL: *Andrew C. Fields, William Church Osborn, William T. Emmet, Adolph C. Hottenroth, John Gibney.*

SIXTEENTH SENATORIAL: *William D. Dickey, Henry W. Wiggins, William H. Mase<sup>1</sup>, Charles W. H. Arnold, Ira M. Hedges.*

SEVENTEENTH SENATORIAL: *John A. Griswold, George L. Danforth, Jacob M. Maybee, Howard Chipp, jr., George H. Bush.*

EIGHTEENTH SENATORIAL: *Roswell A. Parmenter, John H. Peck, William J. Roche, Amos H. Peabody, Edwin C. Rowley.*

NINETEENTH SENATORIAL: *A. Bleecker Banks, Edwin Countryman, Peter A. Rogers, William Kimmey, Dennis P. Kerwin.*

TWENTIETH SENATORIAL: *Abram B. Steele, Edward A. Brown, Walter L. VanDenbergh<sup>2</sup>, Charles C. Lester, Edward C. Whitmyer.*

TWENTY-FIRST SENATORIAL: *Chester B. McLaughlin, Charles H. Moore, Edgar A. Spencer, Frederick Fraser, Thomas W. McArthur.*

TWENTY-SECOND SENATORIAL: *Vasco P. Abbott, John G. McIntyre, William H. Baker, William H. Steele, Elon R. Brown.*

TWENTY-THIRD SENATORIAL: *Henry J. Cookinham, John C. Davies, Charles S. Mereness, James W. Barnum, Abraham L. Kellogg.*

TWENTY-FOURTH SENATORIAL: *D. Gerry Wellington, Ceylon H. Lewis, Louis Marshall, George Barrow, Thomas G. Alvord.*

TWENTY-FIFTH SENATORIAL: *Charles A. Fuller, William J. Mantanye, Abram C. Crosby, H. Austin Clark, George F. Lyon.*

TWENTY-SIXTH SENATORIAL: *John W. O'Brien, Henry R. Durfee, Frank H. Hamlin, Frank E. Tibbetts, George R. Cornwell.*

TWENTY-SEVENTH SENATORIAL: *William H. Nichols, Milo M. Acker, Charles R. Pratt, Owen Cassidy, Charles A. Hawley.*

TWENTY-EIGHTH SENATORIAL: *Nathaniel Foote, Merton E. Lewis, John A. Barlute, George W. Clark, James H. Redman.*

<sup>1</sup> Died before taking his seat.

<sup>2</sup> Died August, 1894.

TWENTY-NINTH SENATORIAL: Nathan A. Woodward, Lockwood R. Doty, Myron L. Parker, William Pool, I. Sam Johnson.

THIRTIETH SENATORIAL: *Charles Beckwith*<sup>1</sup>, *Herman F. Trapper* (Labor), William Turner, James S. Porter, Philip W. Springweiler. Beckwith's and Trapper's seats contested respectively by Harvey W. Putnam and Thomas A. Sullivan, who were admitted June 28.

THIRTY-FIRST SENATORIAL: Henry W. Hill, Tracy C. Becker, John Coleman, George A. Davis, Jonathan W. Carter.

THIRTY-SECOND SENATORIAL: Benjamin S. Dean, Louis McKinsty, Charles Z. Lincoln, Oscar A. Fuller, Frank B. Church.

The Convention was an able body of men, as its deliberations show. It did not contain so large a proportion of delegates who had previously attained distinction in the public service as did that of either 1846 or 1867, but many of them had received honorable preferment and were well equipped by learning and experience for the work they were to undertake. Augustus Frank, Francis, Veeder, Schumaker, Tucker and Alvord were members of the convention of 1867. Augustus Frank, Veeder, Schumaker, Baker and Frank T. Fitzgerald had been representatives in congress, and Banks, Gilbert, McMillan, Koch, Parmenter and Vedder, state senators. Morton, Veeder, Cooney, Holcomb, Williams, Giegerich, Tucker, Dayton, Bush, Banks, Gilbert, William H. Steele, Cookinham, Davies, Wellington, Barrow, Alvord, Fuller, Durfee, Cornwell, Acker, Vedder, Pool and I. Sam Johnson had served in the assembly. Countryman, Goodelle, Schumaker, Nicoll, Abram B. Steele, Mereness, Ceylon H. Lewis, I. Sam Johnson, Oscar A. Fuller and Crosby had been district attorneys; Cady, Chester B. McLaughlin and Griswold, judges; Hirschberg and Alvord, special

<sup>1</sup> Failed to qualify.







Wm. Root

judges; Veeder, McCurdy and Rogers, surrogates, and Cookinham and McDonough, special surrogates of their respective counties. Charles H. Truax was judge of the superior court and Giegerich of common pleas, New York, and Countryman had been justice of the supreme court. Choate and Marshall were members of the Constitutional Commission of 1870. Tucker and Bigelow had been secretaries of state and the latter had also been envoy extraordinary and minister plenipotentiary to the Court of France. Francis had been United States minister to Greece and Portugal and minister plenipotentiary to Austria-Hungary. Alvord was long a member of the state assembly, at three sessions its speaker, and had also been lieutenant governor.

As further indicative of the high character of the Convention, it is well to note some of the positions of trust and honor which have been filled by the delegates thereto since its sitting. The number of those who have been selected therefrom as justices of the supreme court is remarkable. The list embraces Jesse Johnson, Hirschberg, Parkhurst, Jenks, Giegerich, Charles H. Truax, Platzek, Dayton, Dickey, Chester B. McLaughlin, Spencer, Lyon and Foote. Storm and F. T. Fitzgerald have been representatives in congress, and Marks, Elon R. Brown, Cassidy, Merton E. Lewis, Hill and Davis, state senators. Blake, Storm, Joseph I. Green, Gibney, Abram B. Steele, Merton E. Lewis, Hill and Springweiler have served terms in the assembly. McDonough has been secretary of state two terms and a judge in the Philippines. Barhite is special county judge and Lauterbach a regent of the University. Elihu Root has been



United States secretary both of war and state and is now a United States senator; and Joseph H. Choate has been ambassador to the Court of St. James.

The Convention was organized by the choice of Joseph Hodges Choate as president, Thomas G. Alvord first vice president, William H. Steele second vice president and Charles Elliott Fitch secretary. It adjourned *sine die*, September 29. As at first organized, it consisted of 97 Republican, 70 Democratic and one Labor delegates. After the admission of the contestants, as already noted, there were 104 Republicans and 68 Democrats, the vacancies caused by death and non-qualification not being filled.

The choice of the president of the Convention was happily made. Mr. Choate had for years been the leader of the New York bar, was of handsome presence, gracious manners and wide learning. Although without previous parliamentary experience, save as a member of the Constitutional Commission of 1890, he at once showed high ability as a presiding officer — firm, dignified, impartial, resourceful, and commanded the esteem of the Convention throughout, at times enlivening the discussions with his rare quality as a wit and, at exigent moments, taking the floor in advocacy of propositions in which he was especially interested. Mr. Alvord, the first vice president, far exceeded any of his colleagues in legislative service and admirably fulfilled the duties of the chair, whenever called thereto; but his age, 83 years, precluded him from prominent participation in the

proceedings of the Convention, although his counsel was often invoked and deferred to. Mr. Steele, the second vice president, was also a skilled parliamentarian.

On assuming the chair, President Choate outlined the subjects which, in his opinion, would chiefly demand the attention of the Convention, prefacing his address with a cordial tribute to the existing Constitution which, he said, "we are not commissioned, as I understand it, to treat with any rude or sacrilegious hands. To its general features, the statutes, the judicial decisions, the habits of this great people have long been accustomed and adapted, and, it seems to me, we should be false to our trust if we entered upon any attempt to tear asunder this structure which, for so many years, has satisfied, in the main, the wants of the people of the State of New York. And yet," he proceeded, "there are certain great questions which we are here to consider, which stare us in the face at the very outset of the proceedings and will continue to employ our minds until the day of our final adjournment." Among these, he specified the reapportionment of the legislative districts, the government of cities, the relief of the court of appeals, the suffrage, education, and the regulation of legislative procedures.

The Convention, although dealing with other subjects as well, devoted itself principally to those suggested by the president; and, in reviewing its work, the order of the articles as recited in the Constitution, rather than in chronological sequence as considered by the Convention,

will be followed. In article I — “ The Bill of Rights ” — an especially clear and imperative enunciation of the rights of the citizens of a free state — but two or three changes were made, although many, some of a fantastic character, were proposed. To section seven a clause was added authorizing the passage of general laws permitting the holders of agricultural lands to construct and maintain drains, ditches and dykes upon the lands of others with proper restrictions and compensation. Section nine, prescribing the assent of two-thirds of each branch of the legislature to bills appropriating public moneys or property for local or private purposes, was transferred, as section 20, to article III. In section nine, renumbered 10, gambling was more strictly defined and the legislature was directed to pass appropriate laws to prevent offences against any of the provisions of the section. From section 16 the appointment of a commission to codify the whole body of the law of the state was eliminated because its object had been in part accomplished and ample power resided in the legislature to create further commissions for the purpose indicated. The following was added to section 18 :

The right of action now existing to recover damages for injuries resulting in death shall never be abrogated; and the amount recoverable shall not be subjected to any statutory limitation.

This section gave rise to considerable discussion, the issue turning not so much upon its justice, concerning which there was general agreement, as upon the query whether the abrogation of the statutory limitation of \$5,000

might not properly be left with the legislature; but, as Mr. Lauterbach said, repeated applications had been unsuccessfully made to that body to increase the limitation; and, in this view, the Convention thought it better to clinch the matter constitutionally, and adopted the section by 107 affirmative to 40 negative votes.

Among the many propositions, or overtures, as they are called in the official record, to article I, rejected by the Convention, were those relating to the abolition of capital punishment. These were three in number — that of Joseph I. Green, to the effect that no person should be deprived of life by the state for any cause whatever; that of Mr. Tucker, substituting life imprisonment for the death penalty; and that of Mr. Blake, abolishing the latter and also depriving the governor of the pardoning power in cases of murder of the first degree. The committee decided adversely to all these and their report was agreed to by a vote of 85 to 50. The debate thereon was rendered especially interesting by the able, earnest and eloquent plea against capital punishment of Mr. Blake, whose felicitous speech uniformly compelled admiration; and it is to be said that not a few of the votes turned upon remanding the question to the legislature rather than upon the principle involved.

Article II of the Constitution relates to the suffrage — the qualifications for and restrictions upon its exercise. They were well defined in the Constitution of 1846 and the amendment proposed by the Commission of 1872 and adopted in 1874. Little remained, therefore, for the

Convention to do concerning male suffrage, but it did give consideration to propositions for certain additional prerequisites to the suffrage, the propriety of making it compulsory with all possessing it, and, more than all, for its extension to women. The only change in section one of the suffrage article is that substituting a period of citizenship longer than 10 days as one of the conditions precedent to the casting of a ballot. Various periods were suggested — ranging from ten days to six months — but, on motion of Mr. Root, that of 90 days was determined upon. The change is certainly a wise one. An amendment to section three, which defines residence for voting purposes, prevailed by a vote of 98 to 53. It inserts these words, “or institution wholly or partly supported at public expense, or by charity,” its object being, as stated by the introducer, Mr. O’Brien, “simply to carry out and effectuate the spirit of the section,” so that “no one shall gain a residence while kept in an institution of a charitable nature.” Section four was amended so as to include regulations for the registration of voters; and to section five was added “or by such other method as may be prescribed by law, provided that secrecy in voting be preserved.” This validated voting by machines, then recently invented and now utilized in many communities. A new section, numbered six, provides that registration and election boards, except at town and village elections, must be bipartisan.

Among the proposed amendments to article II which failed of adoption, but to which the Convention



paid attention, were those favoring compulsory voting and woman suffrage, respectively. The first assumed definite form in the following overture of Mr. Holls:

Laws shall be made for ascertaining, by proper proofs, the citizens whose duty it shall be to exercise the right of suffrage hereby established and providing suitable punishment for the neglect of such duty. Such penalties may include disfranchisement for such period of time as the law may provide.

This was reported favorably by the committee, and in its support Mr. Holls made an exhaustive and scholarly speech upon the principle, in which he claimed that the suffrage was a duty to be performed and that it was within the province of the state to impose a penalty for its non-performance, citing in its behalf the law of Virginia of 1737, the constitutions of Belgium and Switzerland and the opinions of authoritative publicists. Mr. McClure made the chief speech in reply, saying, among other things, that a good and sufficient reason for abstinence from voting was that parties might not offer to an elector candidates worthy of his suffrage, and that the proposition was one intended only to add to the humor of the Convention. Speeches were also made by Mr. Nicoll in the affirmative and Messrs. Smith and Blake in the negative. Progress was reported and leave granted to sit again, but no further action was had.

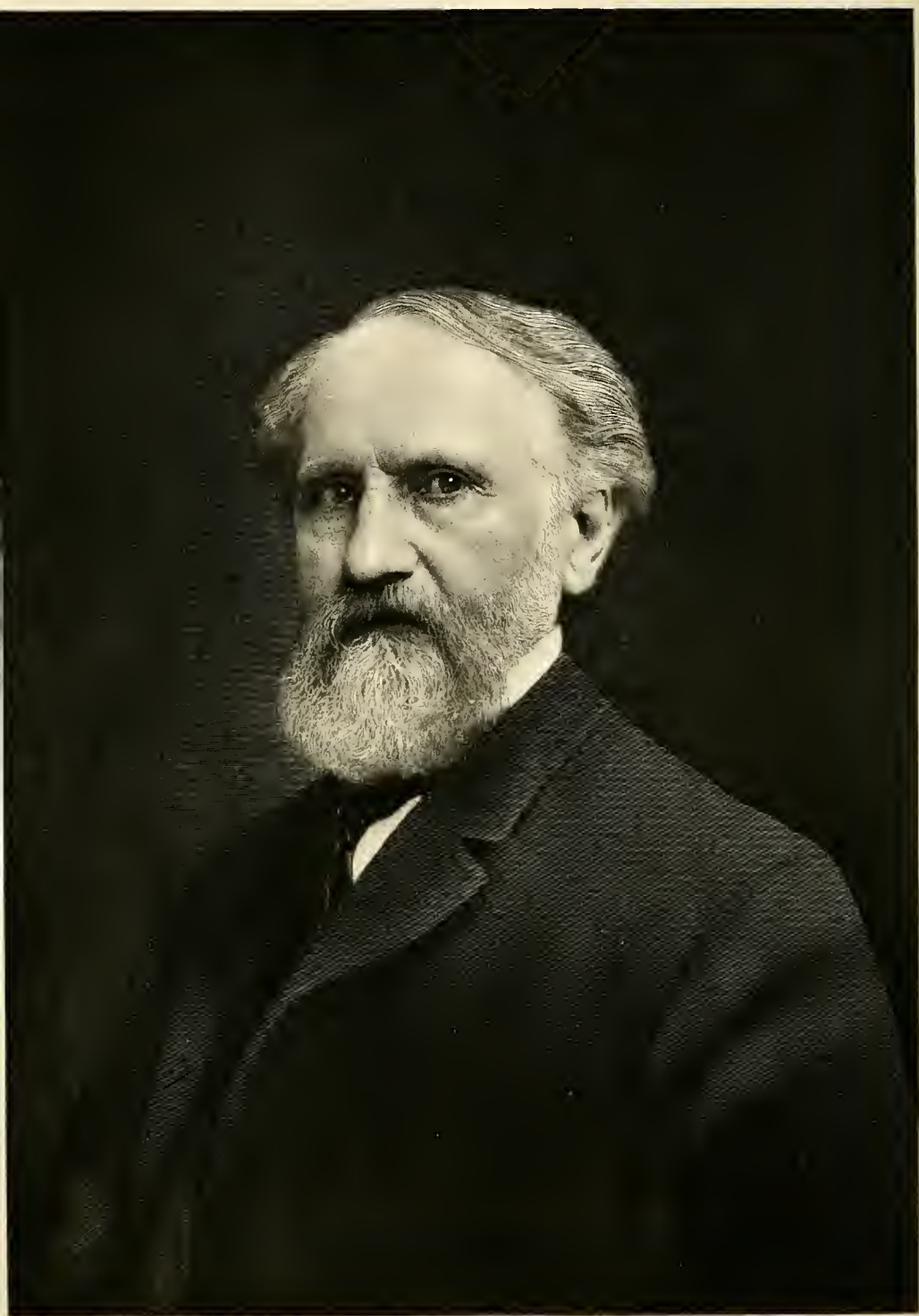
The contest over woman suffrage was one of the most interesting of convention events, inspiring, as it did, the best oratorical talent on either side, and not without spectacular effects, especially on the part of its outside



advocates. It was prefaced by much public agitation and the Convention was fairly deluged with petitions, aggregating nearly 600,000 signatures in favor of the proposition, with 15,000 against it, canvasses, however, in the one case being far more active than in the other. Elizabeth Cady Stanton, Susan B. Anthony, Mary Putnam Jacobi and other veteran campaigners trained their guns upon the Convention; the officers of the Woman's State Suffrage Association, with Mrs. Halbert S. Greenleaf at their head, were in constant attendance, and a brilliant presentation of their cause was made at a hearing in which a body of enthusiastic and eloquent women, one from each county, participated. The opposition, at a later hearing, was represented by the Right Reverend William Croswell Doane, the Reverend Clarence A. Walworth and others not, it must be conceded, with quite the cleverness and force of the affirmative, owing possibly to the fact that it was generally regarded that the defeat of the proposition was a foregone conclusion.

The legal argument was unquestionably with the women, but doubts as to the expediency of yielding to their demand inclined the majority of the Convention against them, upon the predicate that the suffrage is not an inherent right of citizenship, but a franchise bestowed by the state; and upon the final issue before the Convention — that of submitting the proposition therefor to male citizens for their determination — it is evident that it would have received even less votes than it did, had it been in the form of a constitutional mandate and





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not merely a referendum. Mr. Tucker's overture, which became the test, for the separate submission of the question of woman suffrage, was, after much time spent upon it by the committee, reported from it adversely by a vote of 13 to four, Mr. Tucker making a minority report. Several evenings were devoted by the Convention to it as a special order. The leading speech in support of the overture was made by Mr. Lauterbach, and Messrs. Bigelow, Towns, Lincoln, Blake, McKinstry, Roche and others followed on the same side, while Messrs. Cookinham, Hirschberg, Root and others sustained the majority report, Mr. Goodelle, the chairman of the committee, closing the debate in a studied and vigorous address. The majority report was adopted by a vote of 98 to 58, and that not at all upon party lines, 67 Republican and 31 Democrats being recorded in the affirmative and 33 Republicans and 25 Democrats in the negative. Woman suffrage had made progress in 30 years, for, in the Convention of 1867, it only secured nine votes as against 113. It still waits upon the State of New York for its adoption.

Article III of the Constitution relates to the legislature — its organization, powers and duties. Several changes in it were made by the Convention. Section 10 was amended by giving larger significance to the election and defining more clearly the functions of the temporary president of the senate in the following words, "to preside in case of the absence or impeachment of the lieutenant governor, or when he shall

refuse to act as president, or shall act as governor.” For this clause, Mr. Vedder, who had had large experience as a member of both houses of the legislature, was chiefly responsible, laying especial stress upon the fact that, under the existing Constitution, a lieutenant governor might “act as presiding officer of the senate, sitting upon the trial of his own case as a high court of impeachment.” This and other defects the amendment remedied and it was adopted with substantial unanimity. Amendments to other sections were those requiring that a bill shall be printed and on the desks of members at least three legislative days prior to its final passage; prohibiting “riders” on appropriation bills, and regulating prison labor.

Probably the most important work done by the Convention was that of the revision of sections two to five inclusive of the article under consideration, viz., the composition and apportionment of the legislature. It certainly occasioned more of earnest, and even acrimonious, debate than any other amendment, and was the only one, except that on cities, upon which party lines were distinctly drawn. It was of the most vital consequence, with far-reaching results in the administration of state affairs, involving, as it did, the crucial issue as to whether the state should be forefended from the absolute dominance of the metropolis; or, more broadly stated, whether, in apportioning representation, territory as well as population should be regarded. The majority claimed that they accomplished this, guided alike by



precedent and prudence, or, as Charles Z. Lincoln, in his admirable "Constitutional History of New York," says, "The amendments, while preserving the cardinal principles of representation which had prevailed since the beginning of our legislative history, prescribed rules deemed more clear and equitable for the application of those principles in future apportionments." On the other hand, Mr. Jenks, generally esteemed the most accomplished rhetorician in the Convention, said that the proposed scheme, if realized, would restore the policy of representation by the rotten-borough system against which the people once arose in their might, and he declared that this was not apportionment, but was assassination. The plan which prevailed, substantially that of Mr. Elon R. Brown, although Mr. Davies outlined the size of each house of the legislature, included the enlargement of the number of senators from 32 to 50, so to remain until after an enumeration in 1905 and at the end of each succeeding decade, provision being made for an additional senator or senators in any county having three senators or more, with the necessary ratio of increased population; the first body of senators to be chosen for three years and elections thereafter to be for two years, in order to have them occur in even years; no county to have more than one-third of all the senators and no two counties or the territory thereof as then organized, which were adjoining counties or separated only by public waters — that is, Greater New York — to have more than one-half of all the senators; and the increase of the



number of assemblymen from 128 to 150, to be elected for one year, and each county, except Fulton and Hamilton, comprising a single district, to be entitled to at least one assemblyman.

The committee on legislative organization, usually designated as that on apportionment, was diligent in its labors — in historical investigation, in the comparison of the apportionments of other commonwealths with those of New York and in the tabulation of figures relative to the issue, this last being very largely, if not wholly, prepared by Mr. Lincoln. The discussion which ensued upon the report of Mr. Becker, chairman of the committee, favoring the adoption of the Brown amendments, was able, instructive and entertaining from start to finish. It began with an elaborate and illuminating speech by Mr. Becker, who was followed by Mr. Bush in a severe arraignment of the amendment as partisan in its animus by increasing the membership of the legislature, by not basing apportionment purely upon population, thus giving an undue proportion of the legislature to the rural districts and by gerrymandering the senatorial districts in Greater New York to assure certain ones to the Republican party. The burden of the argument in advocacy of the report was borne by Mr. Elon R. Brown and Mr. Lincoln, both of whom were fortified by thorough knowledge of their subject and spoke frequently and with force. The report was sustained further by Messrs. Choate, Gilbert, Barrow, Dickey, Mereness, Cookinham, Root and Cassidy, the last named meeting the chief criticism

of the minority by saying that "partisanship is transitory and ephemeral, but principles are stable and eternal." Messrs. Osborn, Peck, Speer, Blake, Schumaker, Goeller, Jacobs and Nicoll spoke in the negative, the two latter being especially caustic in their remarks. Mr. Bowers, the astute and formidable leader of the minority, made the strongest and the most elaborate speech upon his side of the question. Many other members made short speeches, explaining their votes upon the final passage of the amendment, which was carried by a vote of 96 to 60 — a straight-out political division, except that Mr. Dean voted with the Democrats. The Convention, doubtless fearing for the fate of the Constitution, if otherwise ordered, submitted the apportionment amendment to the people separately.

No changes were made in article IV — the Executive — except to reduce the terms of the governor and lieutenant governor from three to two years; and to place the speaker of the assembly in the line of succession to the governorship in the event that if, for any cause, both the lieutenant governor and the temporary president of the senate were incapacitated from performing the duties of governor. The modification of the gubernatorial term, which had been three years since 1876, was made for the purpose of separating municipal from state and national elections. The amendment to that effect was introduced by Mr. Lauterbach, and its adoption with substantial unanimity — 107 to 24 — followed

that of the cities article to which reference will hereafter be made.

Mr. Vedder was responsible for the amendment relative to the speaker's succession to the gubernatorial chair, saying that it was "to provide an additional safeguard against the State of New York not having at any time a governor." An amendment substituting the secretary of state for the speaker was offered by Mr. Cochran and supported by Mr. McClure, upon the grounds that the secretary had a state and not a mere district constituency and was of the two apt to be the better fitted for the office of governor, but it was rejected and the Vedder amendment prevailed by a vote of 94 to 36.

In revising article V — State Officers — the Convention showed small disposition to return to the method of appointment of the heads of the principal departments of the government, as under the Constitution of 1821, the democratic system of popular election having, in its opinion, been fully vindicated by nearly 50 years of trial, although one delegate, Mr. Moore, did propose the reversion. As a result the superintendents of public works and of the state prisons remained appointive by the governor and senate, and Mr. Lauterbach's amendment, providing that the officers elected in 1895 should hold for three years and their successors for two, was adopted by a vote of 107 to 24.

In this article, section nine, relating to the civil service, was incorporated. It may be said to state, in general

terms, the principles of what is known as civil service reform. So important was the constitutional enunciation of this regarded that a special committee was designated for its consideration. Mr. Gilbert, who was ardently devoted to the reform of the civil service, was its chairman, and Messrs. Francis, Hedges, Hill, Foote, Johnston, Lincoln, McCurdy, Countryman, Bigelow and Osborn were his associates thereon. The committee reported an amendment prepared by Mr. Foote, which was in substance the overture introduced by Mr. H. Austin Clarke, to the effect that appointments and promotions in the civil service of the state and of the cities should be made so far as practicable according to merit and fitness to be ascertained by competitive examination. Amendments to this, one by Mr. Nicoll, inserting "and for all civil divisions thereof"—i. e., of the state—and another by Mr. Cochran, directing that honorably discharged soldiers and sailors from the army and navy of the United States in the late civil war should be entitled to preference in appointment and promotion without regard to their standing on any list from which these may be made, were adopted; and the Foote amendment, as thus qualified, was sanctioned by a vote of 97 to 56.

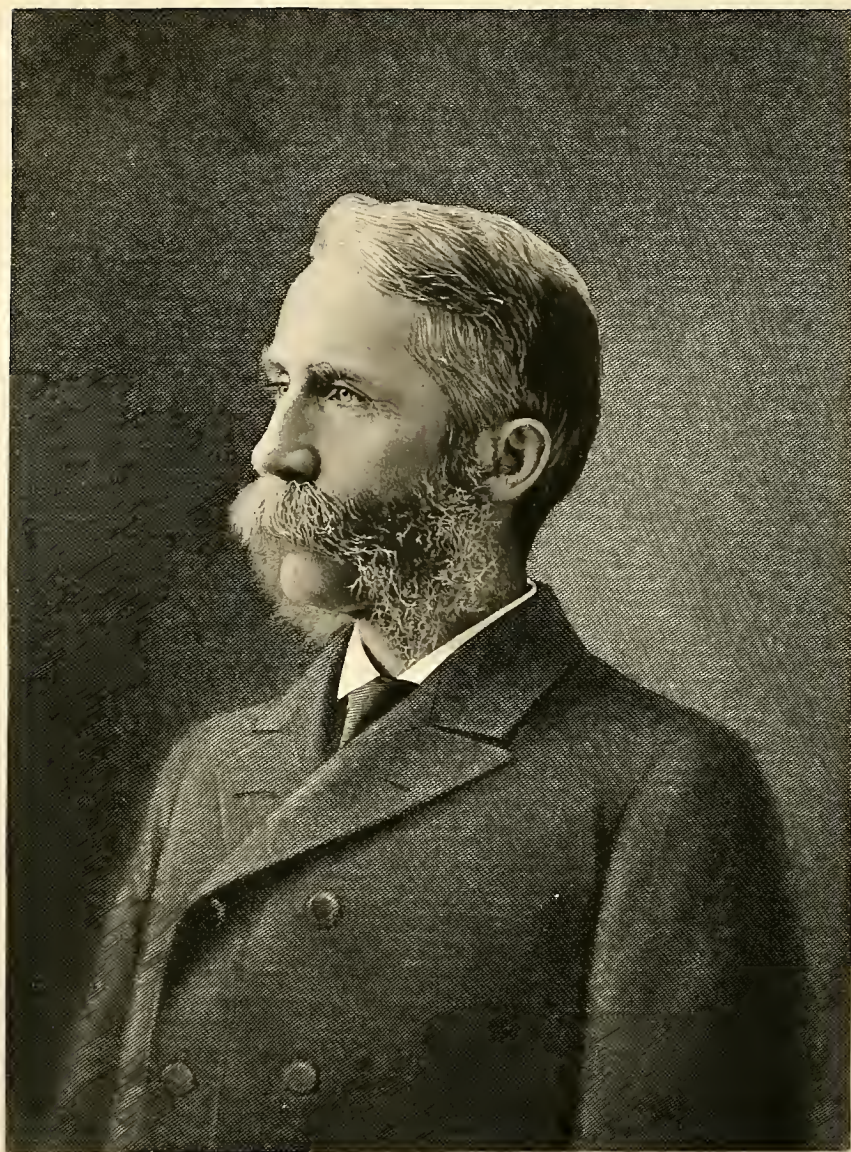
To the revision of article VI—the Judiciary—the Convention gave much deliberation and discrimination. Perhaps the chief inspiration of the holding of the Convention was the pronounced sentiment both of the legal profession and intelligent laymen in behalf of the revision indicated. The court of appeals needed relief from its

overcrowded calendars by limiting its jurisdiction and by some provision for augmenting its force. The general term was regarded as inadequate for its appellate functions and required reconstruction. It seemed advisable to absorb certain local courts — the superior and common pleas of New York, the superior of Buffalo and the city court of Brooklyn — in the supreme court, in order to effect unification; and also to increase the number of justices in the several districts. Added jurisdiction for the county courts was also proposed. These, with other suggested reforms not here necessary to specify, opened a wide field for inquiry by the Convention and the exercise of the soundest judgment in reaching conclusions.

For the formulation of the judiciary article, the standing committee was admirably qualified. It did not, indeed, include all the leading lawyers in the Convention, but they were certainly selected from the best. At its head was Elihu Root, also, as has been stated, the leader of the majority on the floor. He was then in the full flush of his fame at the New York bar, of wide learning and especially familiar with the processes and needs of the higher courts; of consummate ability as a speaker — precise, forcible and eloquent, yet temperate and courteous in debate—and abundantly equipped for the exposition of the article for which he was, in large measure, responsible. His service in the Convention was the forerunner of his signal success as a diplomatist and his world-wide repute as an authority on international law. Associated with him was Louis Marshall, who had been







*John Augersoll Grebert*

especially persuasive in shaping the recommendations of the Judiciary Commission of 1890 which, although failing of adoption, were substantially incorporated in the new article. Messrs. Parkhurst, Johnson, Foote, Truax, Becker, Gilbert, McMillan, Parmenter and Bush were all of excellent professional standing in their respective communities, the first four named subsequently becoming justices of the supreme court. Mr. Countryman had served on that court and Mr. Cady was then a county judge. Mr. Bowers was and is a very successful lawyer in the metropolis. Mr. Nicoll had been eminent as a district attorney of New York county and is now among its brightest legal lights; and Mr. Jenks, whose brilliant rhetorical quality has already been alluded to, is now a distinguished justice of the second district. It is to be noted that on this committee both political parties were ably represented; but it is also to be noted that political lines were not drawn upon the article, each party vying with the other in the betterment of the judicial system.

After numerous hearings and sessions the committee proposed the judiciary article, accompanied by an explanatory statement of its provisions. In the main it was adopted by the Convention after a prolonged discussion, led by Mr. Root, in which many delegates participated. The only material change from the article as presented by the committee was the refusal of the Convention to enlarge the number of judges of the court of appeals from seven to nine; but, by a constitutional amendment of 1899, the governor is empowered, whenever the

accumulation of cases demands and the court certifies to that fact, to designate not more than four justices of the supreme court to serve as associate judges of appeals, until the causes undisposed of are reduced to 200, when they shall be relieved. As a matter of fact, the services of two such justices have been constant since 1899, thus justifying the conclusions of the committee with which the Convention failed to agree.

In considering the remaining portions of the revised Constitution, it may be premised that the changes and prescriptions were mainly of a legislative character — that is, they were within the scope of legislative power, if not of legislative disposition — but the Convention, in order to avoid the caprice, neglect, or refusal of the legislature to act, itself determined to formulate the articles the effect of which, it may fairly be said, has vindicated its wisdom in this regard. In his “Constitutional History,” Mr. Lincoln says: “Several amendments were substantial transcripts of existing statutes and imposed no new duty and conferred no new power on the legislature. They were included in the constitution for preservation and to place them beyond the control of the legislature.” Such amendments, aside from those already specified, include provisions concerning the canals, pool selling and bookmaking, the abolition of passes, bipartisan election boards, the forest preserve, the state board of charities, lunacy and prison commissions, common schools, the university, sectarian appropriations, city legislation and separate elections, and a



large part of the section pertaining to constitutional conventions. "The legislature," as Mr. Lincoln adds, "already possessed power to enact laws in relation to these subjects and might have repealed such laws. The inclusion of these provisions in the Constitution withdraws them from the domain of legislative discretion, and this was the controlling purpose of the Convention of 1894 in adopting amendments relating to these subjects." Reference to these must be brief.

The future of the canals, long the pride and, for many years, the source of large revenue to the state, demanded consideration. Lateral canals had already been abandoned, tolls had been abolished and the constitutional policy of maintaining the chief artificial waterways as free had been ordained; but, beyond these, was the question of their further improvement. After ample discussion, in behalf of the Cady amendment, distinguished especially by the lucid and fervid speech of Mr. Cady, the chairman of the canal committee, and by the scholarly and exhaustive argument of Mr. Hill, who has since, in the senate and in voluminous writings, become recognized as the foremost champion of canal improvement in New York, this amendment — section 10 of article VII — was adopted by a vote of 81 to 24. It is to the effect that the canals may be improved in such manner as the legislature may direct and that the state may incur debt to that end. The canal amendments, as a whole, were adopted by a vote of 89 to 44. The legislature has since passed the \$9,000,000 improvement

act, approved by the people in 1895 and ordained the construction of the barge canal in 1903, the cost of which is estimated at over \$100,000,000.

Most wisely, the Convention incorporated in article VII, as section 7, a provision that the lands of the state, constituting the forest preserve, shall be forever kept as wild forest lands; not to be leased, sold or exchanged, or to be taken by any corporation, public or private, and the timber thereon not to be sold, removed or destroyed. It would be interesting to enlarge upon the history of our public lands and to detail the urgent messages of various governors and the work of successive commissions charged with obtaining and guarding from depredation the timbered lands contained mainly in the counties of Lewis, Essex, Clinton, Franklin, Saratoga, St. Lawrence, Herkimer, Fulton, Hamilton, Warren, Washington, Greene, Ulster and Sullivan — the Adirondacks and the Catskills — if space permitted. Prior to the Convention, legislative expression in favor of forest preservation had culminated in the act of 1893 (chapter 332) by which the preserve, previously established, was continued; the forest commission authorized to sell certain timber, while wild lands of the State were to be taxed the same as private lands; but, in the judgment of the Convention, it was esteemed as salvatory, and even essential, to set the constitutional seal of approval on forest preservation, which was done by the section above cited. Credit is especially due for this to Mr. McClure, who was made chairman of a special committee for the

purpose, having associated with him Messrs. Peabody, C. B. McLaughlin, McIntyre and Mereness. Mr. McClure made a full study of the subject, and in vigorous and impressive language placed the result of his investigation and the need of action before the Convention, introducing his amendment, substantially in the phrase of the section, which was adopted by a unanimous vote — 122 in the affirmative and none in the negative — an emphatic tribute both to the principle asserted and to the fidelity and skill with which it was presented. It is to be added that when the legislature, two years later, offered to the people a constitutional amendment which would let down the bars that the Convention put up, by restoring certain prior statutes touching leases and permitting the exchange of forest preserve lands, it was rejected by a vote of 321,486 as against 710,505, thus vindicating the integrity of the constitutional mandate.

Article VIII is that on Corporations and Charities. The first named met with few changes at the hands of the Convention, the only amendments adopted being that of Mr. Marshall — section 7 — making the stockholders of every corporation and joint-stock association for banking purposes individually responsible to the amount of their respective shares of stock for its debts and liabilities; and that of Mr. Banks — section 10 — defining and limiting municipal indebtedness. The second — Charities — received thorough revision in the constitutional validity of the state board of charities and the commissions in lunacy and of prisons — section 11;



the same to be appointed by the governor and confirmed by the senate — section 12; in prescribing that existing laws, relating to the various institutions under supervision, not inconsistent with the Constitution, shall remain in force until amended or repealed by the legislature — section 13; and in declaring (section 14 quoted in full) that

Nothing in this Constitution contained shall prevent the legislature from making such provision for the education and support of the blind, deaf and dumb and juvenile delinquents as to it may seem proper; or prevent any county, city, town or village from providing for the care, support, maintenance and secular education, of inmates of orphan asylums, homes for dependent children or correctional institutions, whether under public or private control. Payments by counties, cities, towns and villages to charitable, eleemosynary, correctional and reformatory institutions, wholly or partly under private control, for care, support and maintenance, may be authorized but shall not be required by the legislature. No such payments shall be made for any inmate of such institutions who is not received and retained therein pursuant to the rules established by the state board of charities. Such rules shall be subject to the control of the legislature by general laws.

The crucial point raised by this section was whether the state or any civil division thereof, conformably to the principle of the divorce of church and state, should be allowed to extend any support to institutions under denominational auspices, and it inspired earnest debate. Mr. Holls, by request, introduced an amendment strictly forbidding any such support, and it commended itself to Mr. Gilbert and others; but the section was advocated by Mr. Lauterbach who, as chairman of the charities committee, reported it; by Mr. Choate, who said pithily:

“The religion that a child is born in is the best for that child; at any rate, until it can attain the years when it can think and act for itself. Let every institution, parent and sect teach its own child its own tenets, and teach those at its own expense; but reading, writing and arithmetic must be provided by the public”; and by Mr. Root, who said that the provision in the education article, hereafter to be referred to, must not be permitted to close the “gates of knowledge to the blind, the deaf and dumb and the infants in the asylums. \* \* We must either set up institutions ourselves, which will take care of the orphans and dependents or we must prevent our Constitution from precluding the civil divisions of the state from taking care of these unfortunates where they are supporting, maintaining and educating them.” This view obtained.

Article IX — Education — is treated elsewhere in this work, in the paper on education. Suffice it here to say that the Convention retained the section on common school, literature and the United States deposit funds, and ordained three new sections — one declaring that the legislature shall provide for the maintenance and support of a system of free common schools; another constitutionalizing the University of the State of New York and providing that it shall be governed and its corporate powers, which may be increased, modified or diminished by the legislature, shall be exercised by not less than nine regents; and still another, directing that neither the state or any subdivision thereof shall directly

execution of it. \* \* Home rule is American, so we have been told. Nay, the whole history of the civilization of this world is the history of great cities, whether it is of cities that sprang up through the barter of a king who wanted money, or were chartered to offset the insolvent power of the nobility, or were founded like the great cities of the middle ages in Spain. The whole progress of liberty, whether I quote Guizot, Toeqneville, or Robertson, it matters little, has been due to the calm, brave, self-sustained, free exercise of local self-government by the people within the bounds of cities. Toeqneville says, "The local assemblies of cities constitute the strength of free men. Municipal institutions are to liberty what primary schools are to science. They bring it within the people's reach."

In reply Mr. Root said :

The free cities of the middle ages stood by themselves, governed by themselves, but they undertook to exercise no power of governmental rights over others and acknowledged no duties to others. The great cities of New York can build no walls around their borders. They seclude themselves in the midst of no barriers between themselves and their fellow citizens of the state. They undertake to furnish to us and acknowledge their obligations under the law to all of us from Montauk to the state line in Lake Erie. The city of New York is the great market, the great center of education, of recreation, of business; the center commercially, financially, politically, around which revolves and from which throbs and pulses the life current of a state which is a political, social, commercial and financial unit. \* \* That city can not cut herself off from the rest of the state; that city can not put herself in the position of a free city of the middle ages, with a wall around her, governing herself exclusively; or, if she does, she secedes from the state and becomes a city by herself. And against that or any amendment of law which provides for that, I rise now to protest.

After protracted debate, the substitute offered by Mr. Jesse Johnson was adopted, as article XII, by a vote of 93 to 42. It is to the following effect: The classification of cities as of first, second and third classes; laws relating to cities divided into general and special, i. e., those relating to cities of one or more classes, and those

relating to a single city, or to less than all the cities of a class; the transmission of a certified copy of a law relating to a city to the mayor thereof for his approval or disapproval, subject, however, to further action thereon by the legislature and governor. This is about all; and it must be regarded as rather "a lame and impotent conclusion," after so much of the time and labor of the Convention had been devoted to perfecting it, but the majority evidently thought it gave to the cities as much of home rule as was practicable under the maintenance of the principle of the sovereignty of the state. The minority dissented because it did not accord with its conception of the scope of local self government.

By article XIII, all public officers are prohibited from accepting or requesting free passes, free transportation, franking privilege, or discrimination in passenger rates from any company or corporation—a well-considered and needed reform, upon the clean-cut and iron-clad phraseology of which the wisest lawyers in the Convention—Messrs. Choate, Root, Marshall, Bowers, Nicoll and others—bestowed much skill and care. Section XIV outlines the methods by which constitutional amendments shall be proposed, voted upon and ratified, and how future conventions shall be called, constituted and compensated.

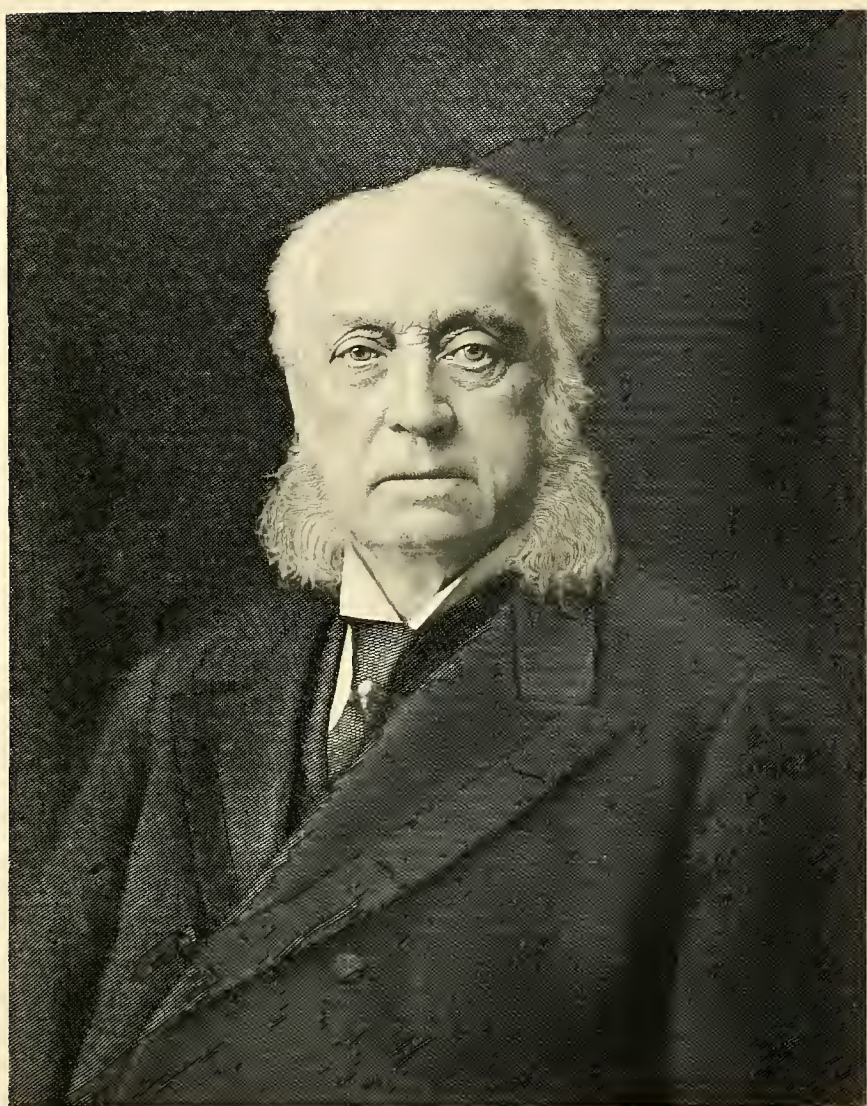
On the 28th of September, the revised Constitution was adopted in Convention by the following vote:

AYES: Messrs. Abbott, Ackerly, Arnold, Baker, Barhite, Barnum, Barrow, Becker, Brown, E. A., Brown, E. R., Cady, Carter,









Engr. by Chas. E. Ho. N.Y.

CHARLES ANDREWS

## CHAPTER XXII

# THE JUDICIARY

BY HON. A. JUDD NORTHRUP

*Ex-Judge of Onondaga County, member Statutory Revision Commission*

IT is often truly said that the development of the judicial system of the State has been, from the beginning, an evolution. It had its foundation in the system existing in the English colony of New York, which in turn embraced some features prevailing while New York was a Dutch colony. This process of building upon the past and retaining much of the products of its development was employed when, in 1777, the first Constitution of the State was framed and adopted as the fundamental law. Subsequent Constitutions and constitutional amendments recognized the successive changes of institutions, sentiments and experience. It is noticeable that this development from an early period has been accompanied largely by efforts of the people to obtain and make secure in the fundamental law their right to more direct, or democratic, self-government — to secure government of the people by the people themselves, even to the extent, finally, of electing their own judges.

A very brief review of the political history of the Colony and State, so far as the judicial system is concerned, will not be unprofitable in a study of the judicial

system of today in its highly perfected form and efficiency. Especially it will make more clear our progress in Constitution-making and the reasons for many of the changes gradually introduced. Some knowledge of the past enables us to more fully appreciate the present.

The Dutch colony of New Netherland, founded by the West India Company, a commercial corporation of Holland, was governed in the Company's own interests. The administration of justice for a long period was dictated from beyond the seas. The first mode of administering the law was under a Governor and a council of five men, who possessed all judicial powers. The "Patrons' Courts" were a special provision created later.

In 1638, William Kieft was appointed Governor, and exercised arbitrary power during the nine years of his government, retaining in his hands the sole administration of justice. It was a condition of absolute monarchy with the evil genius of a despot in power.

Stuyvesant, when he came established a court of justice, with power to decide all cases whatsoever, but the Governor's opinion was to be asked upon all momentous questions. Later he allowed the community to elect eighteen persons, from whom he selected nine men as a permanent body to advise and assist in public affairs. Upon these nine men certain judicial powers were conferred.

The fundamental law of the Dutch was the civil law; of the English, the common law. When the English government superseded the Dutch, the jurisprudence of



the Colony and the State of New York was vitally changed for all time.

In 1665, the Code, called the "Duke's Laws," was imposed and in form was adopted, under which a very complete list of courts was established. However, the first General Assembly which met after the English Revolution of 1688 declared it to be "null and void and of no effect or force in this province," being contrary to the English Constitution.

In 1691 the following Courts were established:

*Single Justice* — Justices of the peace.

*Quarter Session* — The justices of the peace in quarter sessions — with same powers as were granted in England.

*County Court* — Or common pleas.

*Mayor and Aldermen* — With same powers as county courts.

*Supreme Court* — With the powers of King's bench, common pleas and exchequer in England.

*Chancery* — Composed of Governor and Council, with the powers of the chancery court in England.

*Prerogative Court* — The Governor, granting administration and proving wills, and the secretary, being register.

*Court martial* — At Albany, "being a frontier garrison and in actual war."

*Admiralty* — Their Majesties reserved the appointment of judge, etc.



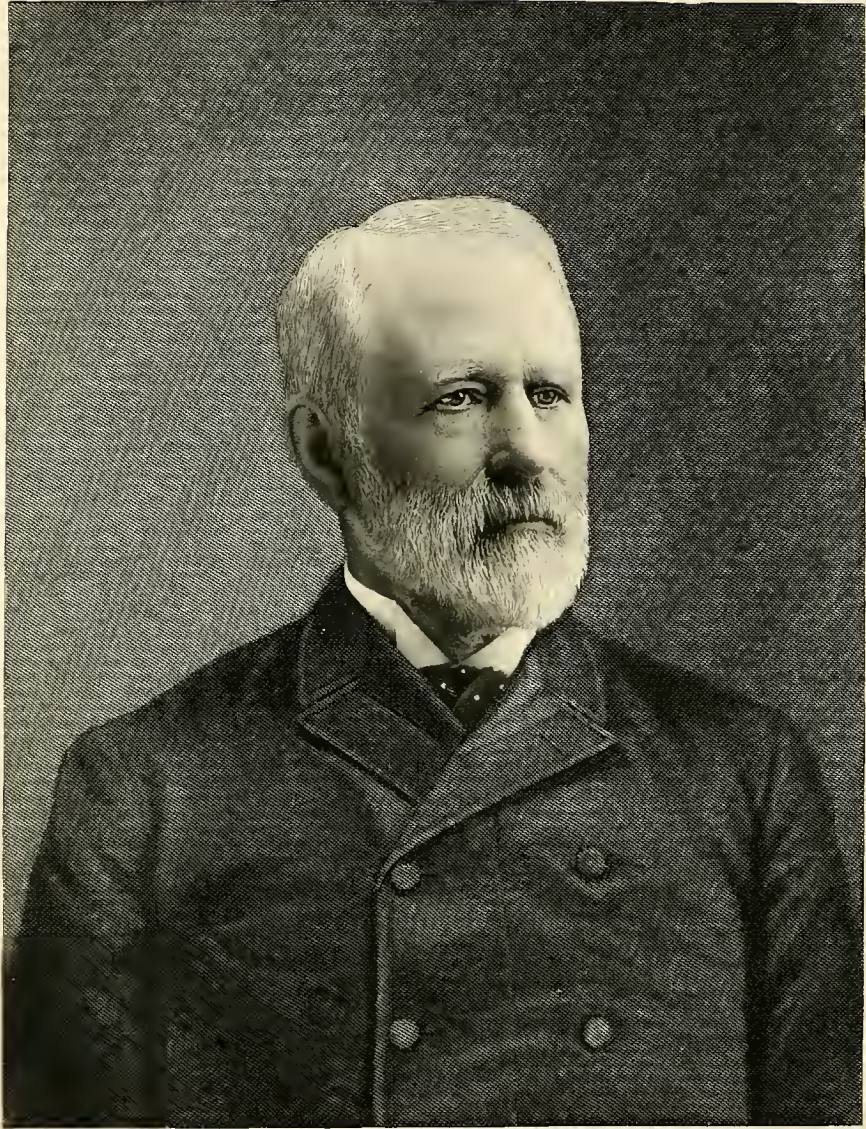
The Supreme Court here named is that referred to in the New York code of civil procedure, where it is declared that the Supreme Court of New York has all the jurisdiction possessed by the Supreme Court established in the Colony in 1691. It thus became the great historic Court of original jurisdiction in the State.

Appeals from the civil judgments of the Supreme Court lay to the Governor and Council. The Governor commissioned or revoked the commissions of the judges at his pleasure, and the Assembly voted — or refused to vote — their salaries. All the courts of the above list, except the prerogative, or Court of the Governor and Council (and the temporary military court), were continued under the State Constitution of 1777.

The history of the State judiciary properly begins April 19, 1775, with the Battle of Lexington, although the State itself was not legally declared to be a State until July 8, 1776, nor was the first Constitution adopted until Sunday, April 20, 1777. This Constitution did not create any courts, except the court for the trial of impeachments and correction of errors, but simply recognized certain courts as then existing. The court for the trial of impeachments, still in existence, has undergone comparatively few changes. The court for the correction of errors was later superseded by the Court of Appeals.

The Chancellor, judges of the Supreme Court, and first judge of every county, were appointed by the Governor and the Council. Sixty years was the age limit for holding judicial office.





*Benjamin F. Lucy*



The Constitution of 1821 provided that the Governor should nominate by message in writing, and, with the consent of the Senate, should appoint all judicial officers except justices of the peace. Thus ended the troubles arising within the council of appointment. Circuits and circuit courts were established.

The great Constitution of 1846 not only preserved all the valuable features of the Constitution of 1821, but originated two memorable additions. It created the Court of Appeals, superseding the Court of Errors. The structure of the Court was crude, but it was a beginning. It also gave to the people the election of their judges and justices. Perhaps no provision of the Constitution was looked upon with more doubt of its expediency, but by common consent it has justified itself in experience.

The Constitutional Convention of 1867 proposed a new Constitution, but it was all rejected by the people except the judiciary article, which was ratified in 1869. It made extensive changes. The Court of Appeals was enlarged, the terms of its judges extended and the "half-and-half" court of 1846 ceased to exist in that form. A temporary commission of appeals was directed to be appointed to hear and determine appeals pending January 1, 1869.

FROM JANUARY 1, 1883.

This was, in brief, the condition of the fundamental judiciary law when Grover Cleveland entered upon his duties as Governor of the State, January 1, 1883. From

that time to 1894 only one material change was made — namely, an amendment, in 1888, creating the second division of the Court of Appeals, “to dispose of an accumulation of the business of the over-burdened Court of Appeals.”

The latest, greatest and most complete structure of the judiciary system was wrought out by the Convention of 1894 and adopted by the people. There were gathered into it all the approved results of the experience of the past. It embodied the wisdom of a body of notable men who acted from broad motives and a sincere desire to serve the State. A complete remolding of the fundamental judiciary law was effected, as embraced in Article 6. And yet, amendments were soon proposed, and some were adopted. Indeed, the fundamental law is now in a way to be amended, almost as frequently, although not so easily, as any general statute of the State.

Taking up the principal sections of Article 6, the present status of the Judiciary system will be readily seen and comprehended.

*Section 1.* (As amended in 1905.) The Supreme Court is continued, with general jurisdiction in law and equity, subject to such appellate jurisdiction of the Court of Appeals as may be prescribed by law. It consists of the original number of 46 justices, the judges transferred by Section 5 from the four city courts abolished (or their successors elected as Supreme Court justices), 12 additional justices distributed among the existing judicial districts, and the Legislature may from time to time



increase the number of justices with regulations as to the number in various districts. Also, a new district may be erected by the Legislature out of the second district, making nine districts in all. By an act of the Legislature, under this provision, chapter 294, laws of 1906, such new district, designated as the ninth judicial district, was erected. The total number of the justices of the Supreme Court, as fixed by the Constitution, is now (1910) 97, as against 46 under the Constitution of 1846.

*Section 2.* (As amended November 7, 1899, and again amended November 7, 1905.) This section relates to judicial departments, appellate division designation of justices, reporter and place of holding courts.

It directs the Legislature to divide (and how to divide) the State into four judicial departments; creates an appellate division of the Supreme Court, consisting of seven justices in the first department, and of five justices in each of the other departments; in each department four to constitute a quorum, the concurrence of three necessary to a decision. Only five shall sit in any case. The Governor designates the justices who shall constitute the appellate division in each department, a majority of which in each department are to be residents of the department. Temporary designations may also be made in case of absence or inability of a justice, or when the business of the Court requires additional assistance. Other regulations follow, but the above gives the essentials of the section.

*Section 3.* Provides that no judge or justice shall sit in the appellate division or in the Court of Appeals in review of a decision made by him or by any court of which he was at the time a sitting member.

*Section 4.* Official terms of the justices of the Supreme Court are 14 years.

*Section 5.* The Superior Court of the City of New York, the Court of Common Pleas for the City and County of New York, the Superior Court of Buffalo, and the City Court of Brooklyn are abolished from and after January 1st, 1896, and the judges of said courts in office at that date became, for the remainder of the term for which they were elected, justices of the Supreme Court, to sit only in their respective counties. Their successors are justices of the Supreme Court.

*Section 6.* Circuit courts and courts of oyer and terminer are abolished, and their jurisdiction vested in the Supreme Court.

*Section 7.* As amended November 7, 1899. Treats of the Court of Appeals, which is continued with the same number of judges as in the amendment of 1869. It contains an important provision, giving power to the Court to certify to the Governor that the Court is unable by reason of the accumulation of causes pending therein to hear and dispose of the same with reasonable speed; whereupon the Governor shall designate not more than four justices of the Supreme Court to service as associate judges of the Court of Appeals, such justices being for the time of such service relieved from their duties as

Supreme Court justices, until the causes pending in the Court of Appeals are reduced to 200, when they shall return to their original duties.

The problem of providing that a single highest court should be enabled to transact, in a reasonable time, its voluminous business, was one of the gravest questions before the Constitutional convention of 1894 and received most serious consideration. The temporary enlargement of the Court, as above, was one of the means to this end. Two other means of remedy were provided (as appears in Section 9), one by constitutional limitation of the jurisdiction of the Court, and the other by giving the Legislature power to further restrict its jurisdiction, the right of appeal, however, not to depend on the amount involved. Taken together, the provisions now existing, and the power to make further provision of relief, develop a plan whereby a single high court may transact all the business that may come to it.

*Sections 8, 9, 10 and 11* not important in this connection.

*Section 12.* As amended November 2, 1909, and in effect January 1, 1910. This is a long and elaborate section, relating to judges of the Court of Appeals and justices of the Supreme Court. It would be burdensome to repeat its provisions here.

*Section 13.* Relates to trial of impeachments.

*Section 14.* County courts continued ; also original jurisdiction for the recovery of money only where the defendant resides in the county, and the complaint

demands judgment for not more than \$2,000. Courts of sessions, except in the county of New York, are abolished, and all the jurisdiction of those courts is vested in the County Court. Every county judge shall perform such duties as may be required by law. Salary to be established by law. He may hold County Court in any other county when requested by the judge of such other county. Term of office six years.

*Section 15.* Surrogates' Courts. Term of office, six years; except in New York, fourteen years. County judge shall be surrogate of his county, except where a separate surrogate has been or shall be elected. Other special provisions are made.

*Sections 16, 17 and 18* relate to local judicial officers, justices of the peace and district court justices, and inferior local courts generally.

Large parts of the Judiciary article of the Constitution have been from time to time enacted by the Legislature as parts of the Code of Civil Procedure. These enactments, in many instances, were repetitions, almost verbatim, of self-executing provisions of the Constitution itself, but by including them with other provisions not mentioned in the Constitution, but implied, the entire Judicial system of the State was set forth in a place and way to make the complete law on the subject clearly and collectively stated and convenient for consultation.

By the enactment of the Judiciary law, being Chapter XXX of the Consolidated Laws, in effect February 17, 1909, most of this matter was transferred to that chapter

and other kindred chapters, thus relieving the Code of Civil Procedure of a vast amount of matter not essential as procedure. However, the re-enactment preserves and repeats the Constitutional provisions, as did the Code, but more appropriately placed.

### THE COURT OF CLAIMS

An act of the Legislature, passed April 7, 1883, established a Board of Claims, with jurisdiction to hear, audit and determine all private claims against the State which shall have accrued within two years prior to the time when the claim was filed, not barred by existing statutes, and to allow thereon such sums as should be paid by the State. Chapter 60 of the laws of 1884 vested in this Board all the jurisdiction and power to hear and determine claims against the State formerly possessed by the Canal Appraisers and the State Board of Audit (abolished by the act of 1883), and the claims pending before them were transferred to the Board of Claims.

The Court of Claims was created by an act of the Legislature, chapter 38, laws of 1907, passed March 19 of that year. It superseded the former Board of Claims and took over all the jurisdiction of that Board. It was made a court of record, and required to report annually, and oftener if required, its records and decisions to the Legislature. It is composed of three judges, appointed by the Governor with assent of the Senate, for terms of 10 years, and a salary to each judge of \$8,000



and expenses incurred in the performance of his official duties. The present judges of this Court (1910) are:

Theodore H. Smith, P. J., Potsdam, appointed March 3, 1904.

Adolph J. Rodenbeck, Rochester, appointed March 3, 1904.

Charles H. Murray, New York, appointed February 2, 1905.

Appeals from the decisions of this Court are taken to the Appellate Division, third department. The judgments of the Court against the State are payable only by an appropriation by the Legislature.

The Court of Claims was always a court of large powers and importance, but latterly the enormous claims for damages caused by the construction of the barge canal have greatly added to its responsibility as well as to its importance.

Within the last few years there has been developed a strong tendency on the part of the people of the State, and especially the bar of the State, to continue in office by re-election judges and justices who have proved themselves able and impartial, independently of their party relations. Both the great parties of the State have repeatedly acted upon this theory of dissociating politics from the bench, and united in nominating and electing such officers. This high ideal has been developed, first, from a new appreciation of the high character of the judges themselves, and their almost uniform independence of parties in the exercise of their judicial functions; and

secondly, from an increasing sense on the part of the people of the vast importance of the Judicial department of our government as a protection of the rights and liberties of all citizens, irrespective of party ties.

At the same time, the people are keen to perceive unworthy qualities in candidates nominated, or renominated to judicial office, and quick to defeat such nominees without reference to party affiliations. Herein lies a large incentive to parties to nominate good men for judges, and to the judges themselves to be loyal to their high trusts.

The Judicial department of our State government from its organization has held a high place and compared favorably with that of any other State. The judges in the early days were well grounded in the knowledge of the common law of England, and as new conditions and questions of a new country and form of government arose, and a modified type of civilization took form, demanding original consideration, they exhibited a quality and grasp of intellect and a soundness of judgment which made their decisions an authority in all the courts of the country. Great names honored the bench, and behind it at the bar were many of the ablest lawyers of the land. It can be confidently said that the high standards of the past have been, in the main, maintained in our day and generation.

Below is a list of the judges of the Court of Appeals under its new organization in 1870, for completeness including some members whose services did not continue

after January 1, 1883. There is also given a list of judges of that Court, constituting the second division. Also, there is a list of the justices of the Supreme Court from 1883 to 1910 inclusive, without political designation.

The following are memoranda relating to the members of the Court of Appeals:

#### CHIEF JUDGES

Sanford E. Church, of Albion, was elected May 17, 1870, and died in office, May 14, 1880.

Charles J. Folger, of Geneva, was elected associate judge May 17, 1870; appointed by Governor chief judge May 29, 1880, in place of Church, deceased; elected chief judge November 2, 1880; resigned November 14, 1881, having been appointed secretary of the United States treasury.

Charles Andrews, of Syracuse, elected May 7, 1870, associate judge for term of 14 years from January 1, 1871, but serving also from July 1, 1870; appointed by Governor Cornell November 19, 1881, chief judge, in place of Folger, resigned, and served to the end of the year 1882; in 1884 re-elected associate judge for 14 years; in 1892 elected chief judge to succeed Ruger, deceased; December 31, 1897, retired under age limit, after having served 27½ years as a member of the Court of Appeals.

William C. Ruger, of Syracuse, elected chief judge November 7, 1882; served to the date of his death, January 14, 1892.

Robert Earl, Herkimer, appointed associate judge November 5, 1875; elected November 7, 1876; appointed

chief judge January 19, 1892, in place of Ruger, deceased, and served as chief to December 31, 1894. He served in that Court 24 years, 7 months and 26 days. He also served on the Commission of Appeals from July 1, 1870, to July 1, 1875. Retired by age limit December 31, 1894.

Alton B. Parker, of Kingston, elected chief judge November 2, 1897, and having been nominated by the Democratic party for President of the United States, resigned his office as judge September, 1904. In 1885 he was elected justice of the Supreme Court, and entered upon the office January 1, 1886, and served in the General Terms and Appellate Division. He was appointed an associate judge of the Court of Appeals, second division, and served from 1889 to 1892.

Edgar M. Cullen, of Brooklyn, appointed chief judge by Governor, in place of Parker, resigned 1904; elected for full term November 8, 1904. He was elected justice of the Supreme Court in 1880; re-elected 1894; designated associate judge of Court of Appeals January 1, 1900.

#### ASSOCIATE JUDGES OF THE COURT OF APPEALS IN OFFICE AT ANY TIME AFTER JANUARY 1, 1883

Charles A. Rapallo, New York City, elected May 17, 1870; re-elected; died in office December 28, 1887. John C. Gray was appointed in his place, and was elected for full term, November, 1888.

Theodore Miller, Hudson, elected in 1874; retired by age limit December 31, 1886. He was elected justice

of the Supreme Court in 1861; was presiding justice of the General Term, third department, during the last four years of his term as justice of the Supreme Court. Won distinction by his successful prosecution of the leaders of the anti-rent agitation.

George F. Danforth, Rochester, elected associate judge in fall of 1878, and served until December 31, 1889.

Francis M. Finch, Ithaca, designated associate judge May 25, 1880, to fill vacancy created by the promotion of Folger to office of chief judge; in fall of 1881 elected for full term, which expired December 31, 1895. Distinguished for his literary attainments.

(Benjamin F. Tracy appointed December 8, 1881, and served until December 31, 1882.)

Rufus W. Peckham, Albany, elected November, 1886; appointed by President justice of the United States Supreme Court and resigned office of associate judge, Court of Appeals. December 31, 1895. Succeeded by Irving G. Vann, appointed by Governor Morton, December 31, 1895.

John Clinton Gray, New York City, appointed by Governor January 25, 1888, in place of Rapallo, deceased; elected 1888; re-elected in 1902; still in service (1910).

Dennis O'Brien, Watertown, elected November 5, 1889; re-elected November 3, 1903.

Isaac H. Maynard, Stamford, appointed January 19, 1892, by Governor Hill, in place of Earl, appointed chief judge; re-appointed by Governor Hill in 1893, in place of Andrews, appointed chief judge. In 1893 he



was his party's candidate for associate judge, but was defeated by Edward T. Bartlett.

Edward T. Bartlett, New York City, elected November, 1893; re-elected November, 1907. Born in Skaneateles, N. Y., studied law under Judge Vann in Syracuse.

Albert T. Haight, Buffalo, elected November, 1894; re-elected November, 1908. Still in service (1910). County judge four years — 1872 to 1876. He was elected justice of the Supreme Court November, 1876; appointed by Governor Cleveland in 1884 associate justice, general term of the Supreme Court; resigned as such associate February, 1889; appointed associate judge of the Court of Appeals, second division, 1889, by Governor Hill; re-elected justice of Supreme Court, 1890; re-appointed associate judge of the Court of Appeals, second division, January 1, 1891, by Governor Hill; re-appointed associate justice of the General Term, 1892, by Governor Flower; resigned as associate justice and as justice of the Supreme Court, December 31, 1894; elected associate judge of the Court of Appeals, November, 1894; re-elected November, 1908. Thirty-eight years' continuous service on the bench and still in active service (1910).

Celora E. Martin, Binghamton, elected associate judge November, 1895. In May, 1877, he was appointed a justice of the Supreme Court, to succeed Ransom Balcom, resigned. In October, 1877, he was nominated by both parties and unanimously elected justice of the Supreme Court; in 1887 he was designated by the Governor a justice of the General Term for five years. Again

nominated by both parties, he was re-elected in 1891; was again designated as a member of the General Term and served as such until December 31, 1895, when he resigned to accept the office of associate judge of the Court of Appeals. Retired, by age limit, December 31, 1904.

Irving G. Vann, Syracuse, appointed December 31, 1895, by Governor Morton, in place of Rufus W. Peckham, resigned; elected November 3, 1896. Renominated by both political parties, 1910, to succeed himself. He was elected justice of the Supreme Court in 1881, and while such justice, upon designation by the Governor, sat for four years (1888-1892) in the Court of Appeals, second division. Re-elected justice Supreme Court in 1895, without opposition, but at the end of that year resigned to accept an appointment, December 31, 1895, to the Court of Appeals, to succeed Peckham, resigned; in November, 1896, he was elected judge of the Court of Appeals for 14 years. Nominated by both political parties in 1910 to succeed himself.

William E. Werner, Rochester. On January 1, 1900, while a justice of the Supreme Court, he was designated by Governor Roosevelt as one of the justices of the Supreme Court to act as judge of the Court of Appeals. In November, 1904, he was elected associate judge for a full term. He was ten years special county judge and county judge of Monroe county; was elected without opposition justice of the Supreme Court, November, 1894.

Willard Bartlett, Brooklyn, designated, while justice of the Supreme Court, by Governor, January 1, 1906, to act as judge on Court of Appeals; elected to that Court November 5, 1907. He was elected justice of the Supreme Court, November, 1883, and re-elected in November, 1897. He served on the general term of the first department, 1887 to 1889; in 1896, associate justice, Appellate Division, second department, until transferred to Court of Appeals, January 1, 1906.

Emory A. Chase, of Catskill, justice of Supreme Court; designated by Governor to serve on Court of Appeals, January 1, 1906.

Frederick Collin, appointed associate judge October 5, 1910, in place of Edward T. Bartlett, deceased, and nominated by both political parties to succeed himself.

Frank H. Hiscock, Syracuse, designated by Governor to serve on Court of Appeals. In January, 1896, he was appointed by Governor Morton justice of the Supreme Court for the fifth judicial district to fill the vacancy caused by the appointment of Judge Vann to the Court of Appeals. In November, 1896, he was elected justice of the Supreme Court. In the fall of 1899 he was designated by Governor Roosevelt a justice of the Appellate Division, but declined the appointment because he thought his services were needed at the time in the trial courts of his district. He was again designated to the same court, by Governor Odell, and accepted, serving until January, 1906, when he was designated by Governor Higgins associate judge of the Court of Appeals.

He is still serving in that capacity. Nominated by both political parties in 1910 for justice of the Supreme Court to succeed himself.

Mention would gladly be made of many of the justices of the Supreme Court, but the limits of this article prevent.

## JUDGES OF THE COURT OF APPEALS

*(Under Constitutional Amendment of 1869 and later Amendment and Constitution)*

## CHIEF JUDGES

Name		Chosen
(D) Sanford E. Church .....	May	17, 1870
(R) Charles J. Folger .....	May	20, 1880
(R) Charles Andrews .....	November	19, 1881
(D) William C. Ruger .....	November	7, 1882
(D) Robert Earl .....	January	19, 1892
(D) Alton B. Parker .....	November	2, 1897
(D) Edgar M. Cullen .....	September	2, 1904

## ASSOCIATE JUDGES

(D) William F. Allen .....	May	17, 1870
(D) Martin Grover .....	May	17, 1870
(D) Rufus W. Peckham .....	May	17, 1870
(R) Charles J. Folger .....	May	17, 1870
(D) Charles A. Rapallo .....	May	17, 1870
(R) Charles Andrews .....	May	17, 1870
(R) Alexander S. Johnson .....	December	29, 1873
(D) Theodore Miller .....	November	3, 1874
(D) Robert Earl .....	November	5, 1875
(D) Samuel Hand .....	June	10, 1878
(R) George F. Danforth .....	November	5, 1888
(R) Francis M. Finch .....	May	25, 1880
(R) Benjamin F. Tracy .....	December	8, 1881
(D) Rufus W. Peckham .....	November	2, 1886
(D) John Clinton Gray .....	January	25, 1888
(D) Dennis O'Brien .....	November	5, 1889
(D) Isaac H. Maynard .....	January	19, 1892

OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

Name	Chosen
(R) Edward T. Bartlett.....	November 7, 1893
(R) Albert Haight.....	November 6, 1894
(R) Celora E. Martin.....	November 6, 1895
(R) Irving G. Vann.....	December 31, 1895
(R) William E. Werner.....	November 8, 1904
(D) Willard Bartlett.....	November 5, 1907
(D) Frederick Collin.....	November 8, 1910
(R) Emory A. Chase, J. S. C., designated by Governor—first January 1, 1906, second.....	October 5, 1910
(R) Frank H. Hiscock, J. S. C., designated by Governor.....	January 1, 1906

SECOND DIVISION

(Under Constitutional Amendment of 1888)  
(Court dissolved October 1, 1892)

Name	Appointed
(R) David L. Follett, chief judge.....	January 21, 1889
(D) Charles F. Brown.....	January 21, 1889
(D) Alton B. Parker.....	January 21, 1889
(R) Joseph Potter.....	January 21, 1889
(R) Irving G. Vann.....	January 21, 1889
(D) George B. Bradley.....	January 21, 1889
(R) Albert Haight.....	January 21, 1889

Judson S. Landon appointed January 1, 1892, in place of Potter,  
whose term expired December 31, 1891.

JUSTICES OF THE SUPREME COURT OF NEW YORK STATE—  
1883-1910

FIRST JUDICIAL DISTRICT

George C. Barrett	David Leventritt
Noah Davis	James A. O'Gorman†
Abraham R. Lawrence	John Proctor Clarke*
Charles Donohue	James A. Blanchard*
John R. Brady	Samuel Greenbaum*
George P. Andrews	Alfred Steckler
Charles H. Van Brunt	Edward E. McCall*
Edward Patterson	Edward B. Amend*
Morgan J. O'Brien	Vernon M. Davis*

\* In office 1910

† Elected United States Senator March 31, 1911, to succeed Chauncey M. Depew.



# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

George L. Ingraham\*  
 Charles H. Truax  
 Frederick Smyth  
 Charles F. MacLean  
 John Sedgwick  
 P. Henry Dugro\*  
 John J. Freedman  
 David McAdam  
 Henry A. Gildersleeve  
 Henry R. Beekman  
 Joseph F. Daly  
 Henry W. Bookstaver  
 Henry Bischoff, jr.\*  
 Roger A. Pryor  
 Leonard A. Giegerich\*  
 Miles Beach  
 Francis M. Scott\*  
 William N. Cohen  
 James Fitzgerald\*

Victor J. Dowling\*  
 Edward S. Clinch  
 Joseph E. Newburger\*  
 Matthew Lynn Bruce  
 John W. Goff\*  
 Samuel Seabury\*  
 M. Warley Platzek\*  
 Peter A. Hendrick\*  
 John Ford\*  
 Charles W. Dayton\*  
 John J. Brady\*  
 Mitchell L. Erlanger\*  
 Charles L. Guy\*  
 James W. Gerard\*  
 Irving Lehman\*  
 Edward B. Whitney\*  
 Nathan Bijur\*  
 Edward J. Gavegan\*  
 Alfred R. Page\*

## SECOND JUDICIAL DISTRICT

Charles F. Brown  
 Joseph F. Barnard  
 Jackson O. Dykman  
 Calvin E. Pratt  
 Edgar M. Cullen  
 Willard Bartlett  
 William J. Gaynor  
 William D. Dickey  
 Wilmot F. Smith  
 Martin J. Keogh  
 Augustus Van Wyck  
 Nathaniel H. Clement  
 William J. Osborne  
 Garret J. Garretson\*  
 William W. Goodrich  
 Michael H. Hirschberg  
 Samuel T. Maddox\*

Jesse Johnson  
 Ahnet F. Jenks\*  
 Josiah T. Marean\*  
 William J. Kelly\*  
 Joseph A. Burr\*  
 Edward B. Thomas\*  
 Walter H. Jaycox\*  
 Joseph Aspinall\*  
 Frederick E. Crane\*  
 Lester W. Clark\*  
 George B. Abbott  
 William J. Carr\*  
 Townsend Seudder\*  
 Abel E. Blackmar\*  
 Luke D. Stapleton\*  
 Harrington Putnam\*  
 Isaac M. Kapper\*

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\* In office 1910

# OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

## THIRD JUDICIAL DISTRICT

William L. Learned	Alden Chester*
Charles R. Ingalls	Emory A. Chase*
Theodoric R. Westbrook	Alphonso T. Clearwater
Austin Melvin Osborn	James A. Betts*
Rufus W. Peckham	Aaron V. S. Cochrane*
Alton B. Parker	Wesley O. Howard*
Samuel Edwards	Gilbert D. B. Hasbrouck
Stephen L. Mayham	George H. Fitts
Edgar L. Fursman	Randall J. Le Boeuf*
D. Cady Herrick	

## FOURTH JUDICIAL DISTRICT

Joseph Potter	Martin L. Stover
Judson S. Landon	Chester B. McLaughlin*
Augustus Boekes	James W. Houghton*
Charles O. Tappan	Edgar A. Spencer*
Frothingham Fish	John M. Kellogg*
John R. Putnam	Henry T. Kellogg*
S. Alonzo Kellogg	Charles C. Van Kirk*
Leslie W. Russell	

## FIFTH JUDICIAL DISTRICT

Irving G. Vann	Frank H. Hiscock*
George A. Hardin	William E. Scripture
Milton H. Merwin	William S. Andrews*
John C. Churchill	Watson M. Rogers*
Pardon C. Williams*	Irving R. Devendorf*
George N. Kennedy	Pascal C. J. De Angelis*
Maurice L. Wright	Edgar S. K. Merrell*
Peter B. McLennan*	

## SIXTH JUDICIAL DISTRICT

Douglass Boardman	Walter Lloyd Smith*
David L. Follett	Burr Mattice
William Murray	George F. Lyon*
Celora E. Martin	Albert H. Sewell*
H. Boardman Smith	Nathan L. Miller*
Charles E. Parker	Albert F. Gladding*
Gerrit A. Forbes	Henry B. Coman*

\* In office 1910

OFFICIAL NEW YORK FROM CLEVELAND TO HUGHES

SEVENTH JUDICIAL DISTRICT

William Rumsey	James W. Dunwell
James C. Smith	Edwin A. Nash
Francis A. Macomber	Adelbert P. Rich*
Charles C. Dwight	John F. Parkhurst
James L. Angle	James A. Robson*
George B. Bradley	Nathaniel Foote*
William H. Adams	Arthur E. Sutherland*
John M. Davy	George A. Benton*
George F. Yeoman	William W. Clark*
William E. Werner	Samuel Nelson Sawyer*

EIGHTH JUDICIAL DISTRICT

Loran L. Lewis	Robert C. Titus
George Barker	Truman C. White*
Albert Haight	John Woodward*
Charles Daniels	Warren B. Hooker*
Thomas Corlett	Daniel J. Kenefick
Henry A. Childs	Frederick W. Kruse*
John S. Lambert*	Louis W. Marcus*
Hamilton Ward	Charles B. Wheeler*
Manley C. Green	Cuthbert W. Pound*
Edward W. Hatch	Edward K. Emery*
Frank C. Laughlin*	Charles H. Brown*
Alfred Spring*	Charles E. Pooley‡

NINTH JUDICIAL DISTRICT

*Appears first in 1907*

Martin J. Keogh*†	Arthur S. Tompkins*
Michael H. Hirschberg*†	Joseph Morschauser*
Isaac N. Mills*	

\* In office 1910

† Formerly in 2d District

‡ Elected November 8, 1910.











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